



## REGULATORY ANALYSIS

# SOCIAL ENTREPRENEURSHIP IN THE REPUBLIC OF MOLDOVA: FINDINGS AND RECOMMENDATIONS

EU4Youth - Unlocking the potential of young social entrepreneurs in  
Moldova and Ukraine



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This report has been prepared for the Project “EU4Youth - Unlocking the potential of young social entrepreneurs in Moldova and Ukraine”. The project is co-funded by the European Union under its EU4Youth Programme and it is implemented by a consortium that includes the following organisations: Gustav Stresemann Institute e.V. (GSI) (Germany) – the lead, Egalite International (Ukraine), AXA Management Consulting organisation (Moldova), ECO-RAZENI Association (Moldova), the National Assistance and Information Centre for NGOs in Moldova "CONTACT" (Moldova), and "Pro NGO! e.V" (Germany).

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This report has been developed by a team of experts in the sphere of law, economy and socio-political sciences. The content of this publication is the sole responsibility of Eco-Razeni Association and can in no way be taken to reflect the views of the European Union.



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## **ACRONYMS**

CSO - Civil Society Organisation

GIZ - German Agency for International Cooperation

IDI – In Depth Interview

ITOA – Income Tax from Operational Activity

LLC - Limited Liability Company

LPA – Local Public Authority

MECR - Ministry of Education, Culture and Research

MoF - Ministry of Finance

MFI – microfinance institutions

NCfSE - National Commission for Social Entrepreneurship

NFBIs – non-banking financial institutions

NGO - Non-Governmental Organisation (equivalent non-profit organizations)

PSA - Public Services Agency

SE - Social Enterprise

SEs - Social Enterprises

SME – small and medium enterprise

WISE – Work Integration Social Enterprise

STS - State Tax Service

UNDP - United Nations Development Program

USAID - United States Agency for International Development

VAT – Value Added Tax



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## EXECUTIVE SUMMARY

The “EU4Youth - Unlocking the potential of young social entrepreneurs in Moldova and Ukraine” project helps to foster the social entrepreneurial potential of young people in Moldova and Ukraine by establishing a favourable environment for social enterprises, the legal framework included, as well as by inspiring and supporting more young social entrepreneurs to develop and sustain their innovative solutions towards promotion of social inclusion and environmental sustainability across both countries. The project is co-funded by the European Union under its EU4Youth programme and it is implemented by a consortium that includes the following organisations: Gustav Stresemann Institute e.V. (GSI) (Germany), Egalite International (Ukraine), AXA Management Consulting organisation (Moldova), ECO-RAZENI Association (Moldova), the National Assistance and Information Centre for NGOs in Moldova "CONTACT" (Moldova), and "Pro NGO! e.V" (Germany).

The project has established a legal working group including three expert teams who have carried out an analysis of the regulatory framework on social entrepreneurship in the Republic of Moldova, namely: *Team 1*- Aliona Țurcan, Patricia Vieru, Irina Ciumac; *Team 2*: BDC Creative and Law Firm “Gladei & Partners”; *Team 3*: “Sabina Cerbu” Law Office. Each team has prepared a legal report on intervention areas assigned for the analysis.

The analysis was focused mainly **on the following areas**: (1) granting the status of social enterprise / work integration social enterprise; (2) activities of the National Commission on Social Entrepreneurship; (3) access to public and private financial resources; (4) access to active employment measures; (4) specifics of public procurement and participation of social enterprises and work integration social enterprises in these procedures; (5) applicable tax regime for social enterprises and work integration social enterprises; and (5) educational programmes on social entrepreneurship.

The **research methodology** includes identification of the relevant regulatory acts and their examination, analysis of other available sources and reports drafted previously in the field of social entrepreneurship; organisation of 32 in-depth interviews with representatives of public authorities and social entrepreneurs; arrangement of several focus group discussions in order to identify the main bottlenecks in the field of social entrepreneurship. The reports have been drafted during the period November 2020 to March 2021. During this period, the legal working group participated in 3 public events where the preliminary findings and recommendations were presented. Later these findings and suggestions were also presented during the National Conference on the Legal Framework for Social Entrepreneurship in the Republic of Moldova held on 16 February 2021.

Moldova is regulating social entrepreneurship by amending the general framework on entrepreneurship, namely Law no. 845/1992 on entrepreneurship and enterprises. As a result of these amendments, the secondary regulatory framework was approved. Thus, the Government Decision no. 1165/2018 on the approval of the Regulation on the organisation and functioning of the National Commission on Social Entrepreneurship was issued, and the list of activities that are considered to be social entrepreneurship activities was approved. The



same Government Decision comprises the Regulation on organisation and conducting the selection of civil society members to the National Commission on Social Entrepreneurship.

As a result of primary and secondary regulatory framework analysis, the expert teams have identified an extensive number of regulatory gaps and inconsistencies, such as:

- Regulation of social entrepreneurship in the Republic of Moldova by adopting the Law no. 845/1992 on entrepreneurship and enterprises was beneficial; however, secondary legislation does not abound in adequate solutions for social enterprises / work integration social enterprises. Thus, the lack of a special law on social entrepreneurship makes it difficult to address immediate solutions.
- The findings highlighted a series of inconsistencies related to regulation of activities of the National Commission on Social Entrepreneurship, approved by Government Decision no. 1165/2018, such as: lack of a monitoring and evaluation mechanism; lack of a decision-making procedure on members of Commission's working groups; types of decisions that Commission could issue; inconsistencies in appointing a chairperson, and the number of members' consecutive terms in the Commission, etc. The Commission organises meetings only upon request, when there are applications for granting the social enterprise / work integration social enterprise status. Therefore, over the last 2 years it has organised only 4 session out of the 8 mandatory sessions according to the regulations in force.
- Currently the status of social enterprises and work integration social enterprises is not granted at the time when the legal entity is incorporated and duly registered, even if the founders have such intention and motivation. This exercise involves amending the statutory acts of the legal entity and implies additional costs for registering these amendments. Moreover, these entities are subject to a certain legal form of organisation under Art. 36<sup>3</sup> of the Law no. 845/1992.
- Although the legal framework provides for the possibility of accessing tax facilities for social enterprises / work integration social enterprises, the secondary regulations do not grant any tax or non-tax facility. Consequently, the subjects of social entrepreneurship come under general taxation rules. Likewise, the payment of income tax from operational activity still remains unclear. At the same time, the tax related regulatory framework does not take into account the social purpose specifics of these enterprises, whereby, for example, a work integration social enterprise has to ensure that least 30% of its staff are people with disabilities or from vulnerable groups. And, even for these categories of people, there are no tax facilities or exemptions.
- Several funding models for social enterprises and work integration social enterprises have been identified. Financial support provided by the state is mainly through non-reimbursable financing, contracting products and services via public procurement, or special purpose direct financing, including reserved contracts for social services. In addition, local public authorities could use the opportunities of public private partnership agreements. However, while local public authorities are regulated by these mechanisms, the interviews showed



that local authorities have limited information on these opportunities. There are also specific forms of support, such as subsidies granted to certain entities such as Society of the Disabled, Society of the Blind, and Association of Deaf People.

- As social enterprises / work integration social enterprises in most of the cases are SMEs (Small and Medium Enterprises), they have limited access to private funding sources as compared to large enterprises. The main reasons for the limited financial capacity are: limited access to potential investors and creditors offering more attractive loan conditions; high administrative and transaction costs; insufficiency or lack of collateral as guaranties for loans; conservative approach of the banking sector and high interest rates; reduced access to cost-effective financial services in rural areas, etc.
- One of instruments whereby social enterprises / work integration social enterprises could access public financial resources is participation in public procurement. Taking into account internal capacities of these enterprises (which are modest), and the specifics of their activity and scope, they are forced to compete under the same terms and conditions with other bidders. Moreover, the main evaluation criterion in public procurement is the most economically advantageous bid, which means the contract is awarded to an entity capable of offering the lowest price. Even if the regulatory framework on public procurement apparently offers some specific opportunities for social enterprises / work integration social enterprises on procurement of social and specific services, or reserved contracts, in practice, these tools are not enforced effectively or in some cases are not enforced at all.
- Adoption of the Law no. 105/2018 on promotion of employment and unemployment benefits aims to make labour market more efficient and inclusive. It benefits jobseekers, the unemployed and employers. The law promotes active labour market policies that help to increase employment through training, to create job opportunities by subsidising employers who hire unemployed people from at risk categories, to create or adapt jobs for people with disabilities, etc. Social enterprises and work integration social enterprises along with other employers have full access to the services and measures implemented by the National Employment Agency of the Republic of Moldova. The financial support offered through subsidies is modest, being limited to 10 average wages per economy in case of single payments, or to 30% of the average wage per economy in case of monthly payments. As a support mechanism, these measures are appreciated very much. They were initially piloted, and currently they are duly institutionalised and budgeted in the state budget, first in 2020, and afterwards, in 2021.
- Entrepreneurial education has been recently introduced in the school curriculum as a cross-cutting discipline. Since 2020 the discipline on economic and entrepreneurial education is piloted in 390 schools across the country. Under these circumstances, assessment of the impact of these educational measures is premature, but certainly they should be addressed more comprehensively.

Upon completion of the regulatory analysis, organised interviews and focus group discussions, the project's legal working group drafted several recommendations for the development of an



adequate social entrepreneurship environment in the Republic of Moldova. Some of the main recommendations are the following:

- To develop a special law on social entrepreneurship emphasising the specifics of this activity in comparison with classical entrepreneurship, and to provide more space for development of medium and long-term strategic policies in this area. The opportunity to draft a special law is also a solution to provide greater visibility of the area, and it could allow for adequate budgetary planning and incorporate appropriate administrative and tax facilities;
- To improve the efficiency of the National Commission on Social Entrepreneurship by amending its Regulation of activity, namely: amending the procedure for appointing the Chairperson; regulating the number of consecutive terms of the commission's members (by limiting them up to two consecutive terms); developing a methodology on compliance, monitoring and evaluation of social enterprises and work integration social enterprises; regulating the decision-making procedures within the working groups of the Commission; introducing the right of ex officio reaction by the Commission; introducing as an obligation of the Commission to draft and approve annual activity plans, and last but not least, strengthening the capacity of the Commission's Secretariat.
- To amend the regulatory framework by excluding the current limitation on legal entities eligible for the status of social enterprise / work integration social enterprise, and provide that any legal entity under private law could be granted such status once all the principles and legal requirements are met.
- To develop a clear tax mechanism for social enterprises / work integration social enterprises, providing for a 4% income tax on operational activity, and establishing a preferential tax rate for employees of social enterprises / work integration social enterprises. These amendments shall be introduced in Art. 7<sup>1</sup> of the Tax Code in order to correlate tax facilities for people with disabilities hired in work integration social enterprises and reduce the tax burden of these enterprises.
- Additional tax related recommendations include to analyse the opportunity of tax exemption for social enterprises / work integration social enterprises for the profit reinvested in the enterprises' activities under their statutory objectives; to introduce a special and reduced VAT regime for products and services provided by social enterprises / work integration social enterprises; to introduce a reduced tax level for employees of social enterprises / work integration social enterprises.
- To extend the subsidy mechanism to social enterprises / work integration social enterprises along the lines of those for the Society of the Disabled, Society of the Blind, and Association of the Deaf.





- To amend Law no. 131/2015 on public procurement in order to extend the list of services for which procurements could be reserved for social enterprises / work integration social enterprises; to approve standard documentation and procedures on procurement of social and specific services; to resolve all technical issues of the electronic platform [www.mtender.gov.md](http://www.mtender.gov.md) in order to make it possible for social enterprises / work integration social enterprises to register and participate in procurement procedures of social and specific services. Additionally, it is recommended to analyse the opportunity to change the evaluation criteria so that they are not based only on price, but take into account the social purposes and the missions of a social enterprise and work integration social enterprise. Furthermore, a solution is to promote among contracting authorities' opportunities to apply public procurement procedures in respect to social and specific services, and the option of reserved contracts for social enterprises and work integration social enterprises for such services.
- To develop educational programmes by including a chapter on entrepreneurship education in the curricula, to provide practical skills training in the field of social entrepreneurship to students, which could be acquired by involving practitioners in extra-curricular activities.

More details on findings and recommendations drafted by the teams of legal experts could be found by accessing the content of the three reports attached to this summary.

In conclusion, we would like to underline the fact that the Republic of Moldova is at an early stage of its social entrepreneurship development. The primary regulatory framework exists, but it can be effectively enforced only if there is a secondary regulatory framework that provides immediate solutions to the problems faced by a social entrepreneur. The number of social enterprises and work integration social enterprises that have obtained such status is small, and entrepreneurs show a low interest in social entrepreneurship. The state does not provide sufficient incentive mechanisms such as an easy access to public and/or private funding, tax and administrative facilities, etc. Besides, existing mechanisms have a low impact, given that not enough funds are budgeted for them or they are not adequately promoted to reach the target groups.



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## CHAPTER I

# Report with conclusions and recommendations on the elaboration of amendments to the legal framework on social entrepreneurship in Moldova

(granting the status of social enterprise / work integration social enterprise; the tax regime applied to these enterprises; educational programmes on social entrepreneurship)

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### BACKGROUND

Social entrepreneurship is a concept used in many countries and it aims at increasing the well-being of society, a goal that prevails over the goal of maximizing profit.

The profit of enterprises that practice social entrepreneurship is reinvested to support a social cause, identify new social needs, encourage the inclusion of people with disabilities, create markets for uncovered needs, provide employment and use alternative resources.

Under the project “EU4Youth - Unlocking the potential of young social entrepreneurs in Moldova and Ukraine”, a team of consultants supports Eco-Razeni Association in improvement of legal framework for Social Enterprises (SEs) in Moldova, by providing legal advice that includes all the aspects of analysis, investigation, gaps identification, formulating recommendations and drafting amendments related to legal and regulatory framework (including specific enforcement methodologies) on social entrepreneurship in the Republic of Moldova.

Overall, the project helps to foster the social entrepreneurial potential of young people in Moldova and Ukraine by establishing a favourable ecosystem for social enterprises, including the legal framework, as well as by inspiring and supporting more young social entrepreneurs to develop and sustain their innovative solutions towards promotion of social inclusion and environmental sustainability across both countries.

In the Republic of Moldova there are 3 registered WISEs and 1 SE. There are also over 80 social entrepreneurship initiatives, supported by international organisations, under different projects.

### METHODOLOGY

In order to prepare the report, the legislation in force and other relevant data were analysed, in-depth interviews were conducted with representatives of state entities, non-governmental organizations working in the field, social enterprises, social entrepreneurship initiatives.

All the activities necessary to achieve the abovementioned objective were performed according to the main stages of the implementation process, as follows:

#### **1. Analysis of the legal framework and available data with reference to:**

- Analysis of similar studies, country reports and other previously developed documents which are available;
- Analysis of the legislation in force on entrepreneurship, taxes, economic and tax incentives etc.;
- Examining the relevance and sustainability of existing models of social entrepreneurship.

**2. The collection of qualitative data** involves gathering of complex and detailed information. In-depth interviews (IDIs) were conducted with relevant specialists and experts in the field: representative of the Ministry of Finance (2), representative of the Ministry of



Education, Culture and Research (1), representatives of the National Commission for Social Entrepreneurship (1), Public Services Agency (1), NGOs which develop social entrepreneurship initiatives (3) and representatives of Social Enterprises (2).

**Table 1. Research design**

No.	Institution/ Organisation	IDI No.	Representative, Department
1.	Ministry of Finance	2	Sectoral Budgetary Policies Division (IDI1); State Tax Service, General Department for Methodology of Fiscal Procedures (IDI2)
2.	Ministry of Education, Culture and Research	1	General Education Directorate (IDI3)
3.	National Commission for Social Entrepreneurship	1	Member of the commission (IDI4)
4.	Public Services Agency	1	PSA Representative (IDI5)
5.	NGO "SOS Autism"	1	Representative (IDI6)
6.	NGO "Casa Phoenix"	1	Representative (IDI7)
7.	NGO "MEGA"	1	Representative (IDI8)
8.	SE "Floare de Cireș" LLC	1	Representative (IDI9)
9.	SE "Taina Codrilor" LLC	1	Representative (IDI10)
	Total	10	

Data were collected during October-November 2020.

## I. ESTABLISHMENT AND OPERATION OF SOCIAL ENTERPRISES

On November 2, 2017, the Law on amending and supplementing some legal acts was adopted (Law No. 845/1992 on Entrepreneurship and Enterprises), for regulation the field of Social Entrepreneurship. In accordance with Art. 36<sup>1</sup> of Law No. 845/1992, the social entrepreneurship activity is carried out by social enterprises and work integration social enterprises. The status of social enterprise or the status of work integration social enterprise is assigned by the National Commission for Social Entrepreneurship, according to paragraph (3) of Art. 36<sup>2</sup> of the same law.

By Decision No. 1165 of 28.11.2018, the Regulation on the organization and operation of the National Commission for Social Entrepreneurship and the list of types of activity that constitute social entrepreneurship activities was approved. The Regulation contains provisions concerning the organization and functioning of the Commission, its nominal composition, the method of granting and withdrawing the status of SE or WISE, including the procedure for examining the application for granting such status, as well as the control regarding compliance with the status of social enterprise or of work integration social enterprise.

According to the law, the definition of social entrepreneurship is as follows:



*Social entrepreneurship, carried out by social enterprises and work integration social enterprises, is aimed at improving livelihoods and providing opportunities to people from disadvantaged categories of the population by strengthening economic and social cohesion, including at the level of local communities, through employment, development of social services of community interest and increase of social inclusion.*

*The social enterprise is an enterprise constituted by NGOs, foundations, religious organisations, private institutions and/or private persons that carry out social entrepreneurship activities in order to solve social problems of community concern, that meet the conditions established by the law.*

*The work integration social enterprise is a social enterprise that aims to create jobs and employ, as a matter of priority, people from disadvantaged categories of the population.*

Limited liability companies and production cooperatives, established of NGOs, foundations, religious organisations, private institutions and/or individuals carrying out social entrepreneurship activities, which cumulatively meet the following conditions, may obtain the status of social enterprise:

- a) They carry out activities in at least one of the fields provided in art. 36<sup>1</sup> paragraph 4 of Law No. 845/1992 on entrepreneurship and enterprises;
- b) They ensure an equal voting right to the associates, regardless of their participation in the share capital;
- c) They reinvest at least 90% of the profit towards achieving the objectives in the field of social entrepreneurship which are expressly stipulated in the establishment document;
- d) They apply the principle of social equity in respect to employees, ensuring fair pay levels, between which there can be no differences exceeding the ratio of 1 to 5;
- e) They do not have debts to the national public budget;
- f) They expressly stipulate the fields in which the entity carries out its activity in the establishment document;
- g) They do not distribute the property, acquired from social entrepreneurship activities from the time of obtaining the status of social enterprise, and do not distribute more than 10% of the profit between its members and its founders, including in case of reorganization or liquidation;
- h) In case of liquidation, they transfer the remaining assets upon meeting the claims of creditors to one or more social enterprises, work integration social enterprises or non-commercial organizations that have obtained the status of social enterprise or work integration social enterprise.

The status of social enterprise or the status of work integration social enterprise is assigned by the National Commission for Social Entrepreneurship for a period of 3 years, with the possibility of extension if it is proved that the conditions underlying the granting of such status are met, and such status is obtained from the time of entering the terms "Social enterprise" or "Work integration social enterprise" in the establishment documents of the enterprise and in the state register in which the respective legal person is registered.



Up-to-date, 4 LLCs have received the status<sup>1</sup> of social enterprise (1) and, respectively, work integration social enterprise (3):

- ❖ LLC „Taina Codrului” WISE (founder - NGO ”Cioressti - Bastina mea!”);
- ❖ LLC „Floare de Cires” WISE (founder - NGO "Eco-Razeni");
- ❖ LLC "Eco Life for You" SE (founder - NGO "Initiativa Pozitiva");
- ❖ LLC "HomeMade" WISE (founder - NGO "Caroma Nord").

According to some studies conducted in this field<sup>2</sup>, social entrepreneurship in Moldova has developed based on the experience of European countries<sup>3</sup> and it is a relatively new concept for our country, being at an early stage of development.<sup>4</sup> The same reports claim that most of the social enterprises have been developed with the support of the donor community, from individual donor organizations to international development agencies, such as: Embassy of Austria, Eastern European Foundation, Embassy of Sweden, Swedish Agency for Development and Cooperation, GIZ - German Agency for Development and Cooperation, UNDP, USAID, FHI360, Swiss Agency for Development and Cooperation, Danish Ministry of Foreign Affairs etc.

Many donors provide support to CSOs programs and projects for several years. There are initiatives for development of social enterprises through Romania-Moldova cross-border cooperation funds provided by the European Commission through the relevant ministries in Romania.

## II. Relationship of Social Enterprises with public institutions: between reality and prospects

### 2.1. Requirements and registration procedures for SEs and WISEs

The requirements for registration of LLCs and cooperatives are stipulated in Law No. 220/2007 on state registration of legal entities and individual entrepreneurs, while requirements for obtaining the status of SE - in art. 36<sup>3</sup> of Law No. 845/1992.

The opinions of respondents related to requirements and procedures for the registration of SEs and WISEs are divided. On the one hand, representatives of state entities mentioned that the process is a complicated and difficult one; on the other hand, the representatives of interviewed SEs emphasized that they did not encounter any difficulties in the process of obtaining the SE/WISE status. It should be mentioned that some representatives of SEs received support from experts (through Eastern European Foundation), a fact appreciated by the respondents.

#### Box 1. Assessment of the process for obtaining the status of SE and WISE

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<sup>1</sup> Protocol No. 1 of 23 June 2020 of the National Commission for Social Entrepreneurship  
[https://mei.gov.md/sites/default/files/proces\\_verbal\\_nr\\_1\\_sedinta\\_cnas\\_23\\_07\\_2020.pdf](https://mei.gov.md/sites/default/files/proces_verbal_nr_1_sedinta_cnas_23_07_2020.pdf)

<sup>2</sup> Report "Social Entrepreneurship in Moldova, reality and prospects", developed by the Eastern European Foundation, 2013

<sup>3</sup> Country Report "Social economy in the Eastern neighbourhood and Western Balkans" developed with the support of European Commission, 2018

<sup>4</sup> Analysis Report on development of social entrepreneurship: current state and challenges, developed with the support of GIZ Moldova, 2019



*"The procedure for submitting files is quite complicated, there is also a lack of understanding of what a social enterprise is. I think this is the main reason for the small number of applications. At the same time, there are many funds directed to social entrepreneurship, for which the status of SE is not necessary. In this case, why shall a CSO bother with the process?!" (IDI4, NCfSE)*

*"The conditions were quite clear. The process is quite simple; it is not bureaucratized." (IDI9, SE)*

*"We submitted the application in October 2019, the commission met in June 2020, a mandatory condition was that 30% of disadvantaged people must be employed... We were guided from the beginning by a lawyer from the Eastern European Foundation, we did not have any problems submitting the application... The conditions were quite clear; from the beginning we knew what we had to do, what steps to take, due to the guidance." (IDI10, SE)*

Upon analysis of the effective legal framework, the conclusion is that registration procedures and conditions are clearly stipulated, but they are rather restrictive. For example, the condition of reinvesting 90% of the income in social activities; the equitable salary distribution, even if people with disabilities work less or provide poorer quality work; prohibition to distribute more than 10% of profit among its members and founders.

*„The conditions are quite drastic, they must have as employees no less than 30% of disadvantaged or disabled people, 90% reinvestment of income in local development activities and social inclusion of people with disabilities... LLC are not in a hurry to become SEs, because the main condition is the reinvestment of capital. Being a LLC means the owners are in control of their income and expenses, they do not have much interest in reinvesting income in social activities." (IDI1, MoF)*

## **2.2. Procedure for registering amendments to the establishment documents**

The status of social enterprise or work integration social enterprise is obtained from the moment of issuing the decision to include the phrase "Social enterprise" or "Social enterprise of inclusion" in the establishment documents of the non-commercial organization, the limited liability company or the production cooperative, followed by its registration in the state register.

According to the PSA representatives, the law cannot provide separate regulations for SEs and WISEs, as at the time of registration, the intention of the legal person in obtaining this status is not determined.

*"They register as a LLC, the status of social enterprise or work integration social enterprise is received later; so, when registering, we cannot talk about special rules, only potentially, when registering amendments." (IDI5, PSA)*

Amendments to the registration documents of LLCs in order to gain the status of social enterprise and work integration social enterprise are subject to the same legal regime as ordinary LLCs, under the conditions of Law No. 220/2007 on state registration of legal entities and individual entrepreneurs. According to Art. 4 of the mentioned law, for the registration of



the amendments to the establishment documents, SEs pay the same fees as other entrepreneurs. The situation is unlikely to change, as long as there are only 4 such entities (SEs and WISEs).

*"Social enterprises apply to PSA as LLCs and the rules regarding the registration of changes for LLCs extend to them... SEs and WISEs are LLCs according to their legal form of organization. Up-to-date there are almost 90 thousand registered LLCs; it is not relevant to grant special facilities to such a small number... The tax calculation methodology does not provide facilities, due to the small number of such enterprises. It is possible that in the future, when there are more SEs, the calculation methodology will be revised." (IDI5, PSA)*

*"In our work we do not meet these concepts very often. From a fiscal point of view they are ordinary LLCs, so they have the same tax regime as other economic operators" (IDI2, STS)*

At the same time, if there is a special law, by analogy with the provisions of Art. 13 paragraph (3) of Law 86/2020 on non-commercial organizations, it would be possible to exempt social enterprises from the payment of state fee for the registration of amendments in the establishment documents.

*"If there is a special law on social enterprises, it would be possible to stipulate that it is registered free of charge, as stipulated in the Law on Non-Commercial Organizations." (IDI5, PSA)*

Also, in case of a special law on social enterprises, these entities will be constituted from the very beginning as a separate legal form, which would allow the exemption of taxes upon registration of the enterprise.

### **2.3. The mechanism of legal regulation on financing**

The mechanism of legal regulation of direct state financing of CSOs is one of the determinants of the relationship between the state and non-profit organizations. Law No. 86/2020 on non-commercial organizations establishes the possibility for the state to provide financial and material support to non-commercial organizations for their organizational development and implementation of projects according to the priorities established for each field of development. Resources allocated for this purpose are provided in the state budget and in the budgets of the administrative-territorial units.

Financial support provided by the state is mainly through non-reimbursable financing, contracting of works and services or through special purpose financing, including a social order. The public authority draws up the list of works and services to be performed/provided by social order and plans their volume. The social order is made according to the legislation on public procurement, and only non-commercial organizations can participate in the tender. In case of a social order, no guarantees are required to secure implementation of the contract.

Another type of non-reimbursable financing of SEs/WISEs by a LPAs is the public-private partnership, regulated by Law 179/2008 which defines the public-private partnership as a long-term contract, concluded between the public and the private partner for carrying out activities





of public interest, based on the capacities of each partner to properly allocate resources and manage risks and benefits.

In providing financial support, public authorities will be guided by the principles of dialogue, transparency, simplicity and clarity of procedures, equal treatment, recognition of the specifics of different categories of organizations, efficiency of using public funds and multi-annual funding.

The public authority may also carry out, jointly with non-profit organizations, activities of public interest in any field of development.

Although there are mechanisms for procurement of CSO works and services by LPAs, such as social order, the interviews revealed that CSOs have limited information on such opportunities.

*"We would like the state to encourage us, to support us, to procure new services from us, first of all, through a transparent public procurement procedure." (IDI6, NGO)*

In most cases, the decision to choose a form of financing is taken exclusively by the financing authorities.

One form of state support would be to extend the subsidy mechanisms provided to specialized enterprises of the Association of Invalids of the Republic of Moldova, the Association of the Blind of the Republic of Moldova and the Association of the Deaf of the Republic of Moldova also to social enterprises and work integration social enterprises.

Art. 36 of Law 60/2012 on social inclusion of persons with disabilities provides that the state partially subsidizes the purchase of equipment and raw materials, job creation, also partially compensates the state social insurance contributions to be paid by the specialized enterprises of the Association of Invalids of the Republic of Moldova, the Association of the Blind of the Republic of Moldova and the Association of the Deaf of the Republic of Moldova, as well as by work integration social enterprises with share capital 100% owned by associations of people with disabilities, created for statutory purposes, in which 50% and more of the total number of employees are people with disabilities. The respective funds are approved annually by the state budget law. The law also stipulates that specialized enterprises and work integration social enterprises are exempt from taxes and fees according to the legislation in force.

*"For social entrepreneurship there are no facilities, it is more difficult to provide facilities to LLCs with SE status, possibly if there a separate legal form of organization for SEs existed, it would be easier. Currently we only have a separate mechanism for associations of the blind, deaf and disabled people allowing for reducing the social security contributions. They also have support from the state in purchase of raw materials, co-financing or undertaking part of the expenses by the state. This mechanism can also be extended to social enterprises." (IDI1, MoF)*

*"It may be necessary to apply to SEs the same tax regime which is used for other enterprises working with people with disabilities, for example associations of the blind, they have the*



*production component as well. In this way, companies that employ people with disabilities should have the same facilities these people have." (IDI2, STS)*

Other forms of support by the state to social entrepreneurship can be taken from the experience of European countries<sup>5</sup>. In most EU countries, at least in Austria, Slovenia, Italy, Spain, the United Kingdom, SEs receive **direct support in form of subsidies**, especially those SEs that contribute to vocational guidance and employment of vulnerable people, people with disabilities, and other vulnerable groups, such as people addicted to drugs, alcohol, people released from detention.

**Indirect support** is provided in several ways:

- *Income tax* - in Austria SEs (*Associations of Public Benefit* and *Not-for-Profit Limited Liability Company*) are exempt from paying income tax if: (i) the purpose of the activities is to support the public benefit; (ii) their economic activities were necessary for public benefit purposes; (iii) the activities do not arise problems of distorted competition;
- *Donations* - in most of the states concerned, legal and private persons can deduct a percentage (between 10-20%) from taxable income for public benefit purposes;
- *Real estate taxes* - in most states, SEs are exempt from paying real estate taxes if their buildings are used for public benefit activities;
- *VAT* - in most states there are VAT exemptions for associations of public benefit. In case of other entities, there are only certain goods and services that are VAT exempt, for example scientific equipment and other research equipment in vital areas such as healthcare.

Some respondents pointed out that Romania's model, which has a special law on social entrepreneurship, is currently the best to be taken over and adjusted by the Republic of Moldova.

*"In Romania there is a law on social economy, in which social enterprises have a priority position; there is a special attitude towards them. In our country SEs are treated as simple LLCs, irrespective of what the law provides" (IDI6, NGO)*

*"We need a special law to regulate social enterprises and social entrepreneurship, as the one regulating LLCs. From the beginning, the law draft was flawed, the social side was not taken into account, we cannot follow the pathway of rich and developed countries, the social model of Romania must be taken into consideration" (IDI4, NCfSE)*

Due to the economic vulnerability of social enterprises, high risks, high interest rates and other related issues, financing is not provided by financial and banking institutions. Microfinance products, unfortunately, are not yet available for social enterprises in Moldova.

The interviewed experts recommended the development of reimbursable financing programs under special conditions.

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<sup>5</sup> Legal framework for social economy and social enterprises: comparison report. ECNL, UNDP (2012)



*"The state could provide preferential loans to SEs, under state guarantee. Depending on the activity of the SE, support could be provided for purchase of the larger equipment, for example the state could be a guarantor of contracts." (IDI1, MoF)*

*"International practice shows that tax facilities are not the best choice, it would be better to have a financing program, incentive measures, involvement of economic operators, state support funds, encouragement of innovative initiatives, maybe even creation of a bank for SEs where they could borrow money." (IDI9, SE)*

The state should provide funding mechanisms and programs to support social businesses. Currently, grants provided by international development agencies and external donors are the main source of funding (or co-funding) for Moldovan social enterprises and businesses. Due to their early stage of development, social enterprises and businesses are either not yet profitable or the profits generated by them are very limited and do not allow for full financial independence. In this context, there is a risk that social entrepreneurship initiatives will not develop further once the project is over, a fact confirmed by the research.

## Box 2. Dependence of social entrepreneurship on project funding

*"Everyone strives to have projects, but these projects do not always learn what social entrepreneurship, or a SE is. These are just some incipient actions, which end by the end of the project." (IDI4, NCfSE)*

*"There are funds for social entrepreneurship at the moment, but if we run out of funding, we are very likely to close. In the short term, our motivation is having funded projects, in the long run there is no motivation." (IDI6, NGO)*

*"We work on the basis of donor funding, which covers salary and food expenses. We cover the utilities costs. After the end of the project, when we finish the savings we have now, it is most likely that we will interrupt our activity. In order to function normally, at least 50% of the costs should be covered by the state." (IDI10, NGO)*

*"We are not financed only from projects, we also have service contracts, including from abroad. If the project funding stops, we will carry out the same activities, only less frequently, in a smaller format. We are guided by a personal, inner motivation not to die selfish." (IDI8, NGO)*

### 2.4. Taxes and fees

The legislation mentions that there are certain tax and non-tax facilities, which unfortunately are not implemented, because they do not have appropriate secondary implementing legislation. For example, although Law No. 845/1992 stipulates that the state provides tax facilities for the development of social entrepreneurship according to the Tax Code, the Tax Code does not provide special facilities for SEs and WISEs; these enterprises have the same tax regime as LLCs, a fact confirmed in discussions with representatives of NGOs.



*"The status of social enterprise does not give me any facility, we have 2 pilot projects, LLCs created by the NGO, through which we manage to carry out social entrepreneurship activities, but, in fact, they are more guided by the projects, than by communities' needs. The Eastern European Foundation supported 20 companies to obtain such status, but because we found out that such status brings no benefits, we decided that the status was superfluous." (IDI6, NGO)*

*"Currently it doesn't make sense to establish a SE, you are charged exactly the same as those who have a regular LLC". (IDI10, SE)*

*"From a fiscal point of view, the SEs are ordinary LLCs, they have the same fiscal regime as other economic operators" (IDI2, STS)*

The situation regarding payment of income tax from operational activity remains unclear in respect to SEs and WISEs. It is not clear if the provisions of chapter 7<sup>1</sup> of the Tax Code apply to SEs and WISEs, the income tax from operational activity (ITOA) being calculated in proportion of 4% of the object of taxation according to Art. 54<sup>3</sup> of the Tax Code or on general principles, which represent 12% of the object of taxation.

*"SEs must have clear conditions of activity and taxation, because one of the conditions of activity is the reinvestment of income in social actions. LLCs pay taxes calculated from the operating income, but for SEs it is not clear how much to pay. I mean, 12% of the money that comes into the account, goes directly to the budget. We do not have a clear answer from the tax authorities, how the SEs will be taxed in the future." (IDI10, SE)*

There are practices whereby the tax legislation has priority tax regimes for certain categories of enterprises (newly created, created by young people, created with the use of innovative technologies, etc.). The interviewed experts believe that in order to support the entities that have recently obtained the status of SE/WISE, it is necessary to adopt a priority tax regime.

*"In order for the economic entities to become functional and generate income, they must have a priority tax regime for at least 3-5 years from the beginning of their activity... SEs must be included in the Tax Code in a separate chapter - which would regulate special provisions on tax policy, modified and adopted every year. The fiscal policy establishes the tax quotas, the fiscal regime, and other specifics of fiscal taxation." (IDI2, STS)*

If we take into account the condition for the work integration social enterprises, whereby no less than 30% of employed people must be persons with disabilities or from disadvantaged categories, the tax facilities for these categories of persons must be considered. For example, lowering the income tax rate to 8% or 6% instead of 12%.

According to Art. 15a) of the Tax Code, the total amount of income tax for individuals is determined in the amount of 12% of the annual taxable income.

Persons employed by individual employment contract, persons in employment relationships based on an administrative act or other types of civil contracts for carrying out works or provision of services (regardless of whether they work full time, part time, have a disability or not) are considered to be working people and are covered by state social insurance.



Respectively, the employer is obliged to calculate and pay state social security contributions on behalf of the employee according to the salary and other rewards calculated to him. At the same time, in accordance with the legislation in force, only persons with severe or moderate disabilities are fully exempt from social and healthcare contributions, such exemption being established for payers of fixed amounts of state social insurance contributions and fixed amounts of healthcare insurance contributions.

Thus, a mechanism could be developed to correlate tax facilities for people with disabilities employed in WISEs and the taxation of the company itself, reducing its tax burden.

*"One option would be to provide a regime of facilitating SEs not directly, but through employees, meaning to reduce their taxation or do it at least for the category of people with disabilities and those from disadvantaged categories." (IDI2, STS)*

## **2.5. Cooperation with public institutions**

According to the legislation, work integration social enterprises can benefit from the following facilities from the local public authorities:

a) allocation of spaces and/or land in public ownership of the administrative-territorial units, with observance of provisions of Law No. 436/2006 on local public administration, in order to carry out the activities for which the status of work integration social enterprise has been assigned.

During the study, some interviewees mentioned that, in addition to the space provided for carrying out the activity, the authorities can provide housing to SE employees. At the same time, even if the LPAs can provide such facilities, cases were identified during interviews when an LPA provided certain offices free of charge, but made it conditional on provision of free services by SEs for a category of beneficiaries, as well as cases when SEs paid for rented public space, without benefiting from any exemption from payment.

*"Local authorities must intervene, they could provide space, SEs should not pay rent for the space where they carry out its activities or LPAs should provide housing to those who work in a SE." (IDI1, MoF)*

*"Some space was given to our SE free of charge, but with one condition from the City Hall - we had to make a commitment to feed 25 disadvantaged people." (IDI10, SE)*

*"They supported us, we initially provided our services within the Family Healthcare Centre, we rented some space within the institution and at the beginning we provided the services there. I paid, of course." (IDI7, NGO)*

Other possible support:

b) support in promotion of manufactured/supplied products, services provided or works performed within the community, as well as in identification of markets for them;

c) support in promoting tourism and related activities by capitalizing on local historical and cultural heritage;



d) other facilities and exemptions from taxes and duties, granted by local public authorities in accordance with the law.

Given that granting of facilities and exemptions from taxes and duties is not expressly stipulated in the legislation, such facilities are granted at the discretion of civil servants, which limits the possibility for SEs and WISEs to benefit from them.

*"The exemption from local taxes should be expressly stipulated by law, not left to the discretion of local councillors." (ID110, NGO)*

*"The specificity of the SE's activity should be taken into account: location, payment of rent or lease, exemption from part of local taxes or preferential conditions." (ID12, STS)*

In the Republic of Moldova, there are no formal coordination mechanisms between key actors from different sectors. The development of social entrepreneurship and institutional coordination are taken over by a number of NGOs that actively address issues related to social entrepreneurship. Even in this context, some representatives of SEs mentioned that they had difficulties in establishing partnerships with the authorities.

*"The main difficulty is to establish partnerships to achieve social goals, there is more openness from foreign partners, than from local actors, city halls, local councils. The sector does not have enough credibility." (ID19, SE)*

*"The LPA has a neutral attitude towards our activity, the social assistance department does not support us." (ID110, SE)*

## **2.6. Reporting by SEs and WISEs - forms and specifics**

The legislation regulates that NCfSE, through working groups, carries out the evaluation on observance of the status of social enterprise/work integration social enterprise by non-commercial organizations, limited liability companies and production cooperatives.

The Commission sets up working groups from among its members, representatives of public authorities and public institutions, which shall be directly involved in carrying out the evaluation. The ground for the evaluation may include notifications of the law and tax authorities, petitions of legal entities and individuals regarding violations committed by social enterprises or work integration social enterprises.

Following the evaluation, the Secretary of the Commission, together with the members of the working group, shall draw up a report on the results of the evaluation, which shall be presented to the Commission for approval. In case of detecting deviations from the requirements provided in Art. 36<sup>2</sup> and 36<sup>3</sup> of Law No. 845/1992 on entrepreneurship and enterprises, the Commission will warn social enterprises or work integration social enterprises about detected violations and will request their elimination within 60 days. If the notified social enterprise or work integration social enterprise does not eliminate the detected deviations within the established period, the Commission shall adopt a decision to withdraw the status of social enterprise or work integration social enterprise.

Even though the legislation stipulates an evaluation approach, from a practical point of view, there is no unified system for carrying out monitoring and evaluation of social enterprises in



Moldova. Donors and organisations providing support to social enterprises use their own methodologies for monitoring and evaluation of social enterprises/NGOs. Often the monitoring is limited to project monitoring as a whole and does not include the economic activities of the organization. Social enterprises usually have an internal system for assessing the social impact they have in the community. Monitoring financial results and profitability becomes difficult when social enterprises have various sources of monetary and non-monetary income and benefit from various technical assistance mechanisms. There is no evidence of a separation of accounts for the non-profit and the for-profit income.<sup>6</sup>

### III. Education and research

According to Law No. 179/2016 on small and medium enterprises, entrepreneurship education is oriented towards the development of entrepreneurship, which is a fundamental competence for lifelong learning and is mandatory for inclusion in study programs and training at all levels.

The relevant authorities with competences in the field of education must initiate and carry out actions to promote the attitudes and behaviours of the entrepreneurial spirit by introducing entrepreneurial education at all levels of the educational system, starting with primary education, initial and continuous training of teachers for entrepreneurial education, including it in career guidance as well.

Entrepreneurial education has recently started to be introduced in the school curriculum as a cross-cutting discipline, and in 2020 the discipline of economic and entrepreneurial education was piloted in 390 schools of the country.

*„We do not find entrepreneurial education as a distinct discipline in mandatory education, it is only optional. The formation of entrepreneurial skills can be found as a cross-cutting component of the following disciplines: Romanian history, personal development and education in society, which are mandatory disciplines in grades 5-12... In 2020 the curriculum was adjusted, we now have a discipline called economic and entrepreneurship education, piloted in 390 schools, a fairly large number.” (IDI3, MECR)*

Given that the notion of social entrepreneurship is relatively new, this concept is only touched upon tangentially; the interviewees believe that this concept needs to be promoted more intensively. Also, the experts in education participating in the study pointed out that the school curriculum is quite complex and busy, so it is not recommended to create a separate discipline on social entrepreneurship, but to include an entrepreneurship education chapter in other disciplines. In addition, the need to train practical skills and abilities in the field of social entrepreneurship was mentioned, which could be implemented by attracting practitioners in the field.

*"The concept of social entrepreneurship should be promoted at the level of the educational curriculum, so that people understand that it is beneficial for the development of the community." (IDI2, MoF)*

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<sup>6</sup> Ibidem



*"It would be useful to have a separate chapter on social entrepreneurship, because the notions of social entrepreneurship we have now confuse and provides only fragmented information. If we insert it in the curriculum and adjust such curriculum, it would be very good. I mean that it is not worthwhile to introduce an additional discipline, the burden on children is quite high anyway." (IDI3, MECR)*

#### IV. Challenges in the development of social entrepreneurship

According to the Analysis Report on the development of social entrepreneurship in the Republic of Moldova: current state and challenges<sup>7</sup>, we have a very low degree of social entrepreneurship culture in the Republic of Moldova.

Currently, there is an interest in increasing this indicator from the perspective of NGOs / Social Enterprises and the academia, and a series of projects attracting experts from other countries are being implemented. The academic environment has an interest in the development of the sector from the perspective of the trend at European level for development of the social economy and the innovative model that changes the perspective in terms of macroeconomic theories.

Some NGOs are interested in continuing to carry out social entrepreneurship activities in the community as a solution to the social problems they face, in order to diversify their sources of self-financing, or to obtain funding aimed at social entrepreneurship activities.

*"We want to continue this activity to get income from elsewhere, not just rely on grants." (IDI7, NGO)*

*"We see the SE status as an opportunity to win projects." (IDI10, SE)*

Even if NGOs are interested in continuing social entrepreneurship activities, they are not sufficiently motivated/interested to register as SE or WISE. There are several reasons for such lack of interest:

1. *Insufficient facilities* - regarding the existing facilities for SEs and WISEs we have got two main opinions of experts: either they believe that there are no facilities, or that the existing ones are not sufficiently adapted to the needs.

*"The legal provisions are declarative, everyone interprets them as they wish, they must be developed and applied in practice. Mechanisms are needed - guidelines, regulations, describing public procedures, reserved public procurement contracts." (IDI9, NGO)*

*"The law says that a SE "may" be exempt from taxes, some goods "may" be provided to it, but there are no expressly stipulated mandatory provisions. Thus, everyone interprets these provisions in their own way." (IDI10, SE)*

<sup>7</sup> [https://mei.gov.md/sites/default/files/raport\\_de\\_analiza\\_antreprenoriat\\_social\\_0.pdf](https://mei.gov.md/sites/default/files/raport_de_analiza_antreprenoriat_social_0.pdf)





2. *Competition with the business environment* - civil society representatives mentioned facing difficulties in attracting customers, managing the business, selling and promoting their services/goods. Representatives of organisations that previously provided these services free of charge, stated that they make an effort to attract customers, not being prepared for open competition with other business representatives.

*"The transition from providing services for free to providing services for a fee was the most difficult for us. Our consumers were accustomed to having everything for free, it was difficult even for us: we revised the prices many times, we lowered them, so that they were accessible to customers. We are facing a strong competition now; when it was free, the beneficiaries came to us, when we set prices, we entered an open competition with the business environment."* (IDI7, NGO)

3. *Limited knowledge* about social entrepreneurship - many organizations are not sufficiently familiar with the concept and operation of social entrepreneurship. For many organizations, the terminology of social entrepreneurship is atypical, or, even if they are familiar with such terms, they have not assessed their capabilities and do not have a clear vision of how social entrepreneurship could develop in accordance with the needs of the organization.

*"As far as I know, the state gives certain facilities to SEs, it contributes with money if you hire several people with disabilities, I don't know how many. That's all I know."* (IDI7, NGO)

*"People do not know how to make use of these opportunities. It is difficult to combine the business approach with the social one. We need a trained society in the dimension of economic growth, it's a challenge, a double risk."* (IDI9, NGO)

4. *Lack of a well-defined business model* for social entrepreneurship initiatives - CSOs still do not have a clarity on how they could gain financial independence based on social entrepreneurship activities. Some of them try to identify viable business models, experimenting with different types of social business models, trying various approaches. Civil society representatives say they have limited knowledge in entrepreneurship, despite the numerous training events they have attended.

*"We have several social entrepreneurship initiatives: we provide services, we carry out training activities, we develop games. We provide these services as an association, we do not intend to register any other form of activity, until we find a profitable business model; currently, we are experimenting with different models."* (IDI8, NGO)

*"We are not ready to initiate a social enterprise. There are salary expenses that we cannot cover from this economic activity, independently. We do have the technical and material base, the equipment, the trained specialists - but we don't know how to cover these expenses by ourselves. And it is extra work, accounting, reporting, etc."* (IDI7, NGO)

5. *Human resources* - several challenges related to human capital were revealed during the study. On the one hand, the limited practical skills of employees in the field of social economy have been emphasized, and on the other hand, high staff turnover does not always



make it possible to train members or employees in the field of sales and marketing. The organizations' investment in skills training may not be recovered in the long run, as there is a risk that trained human resources will migrate to other areas/ institutions. The inherent condition for a SE is that it requires a special attitude towards human resource management: the employment of people with disabilities requires paying an equitable salary, even if the quality of work and work schedule of people with disabilities differ from that of other employees.

*"We face high staff turnover, we hire them, train them and then they leave. It is difficult for us to motivate young people to work within an operational business." (ID17, NGO)*

*"The biggest difficulty is the employees - it is quite difficult to work with them; it has not been taken into account that parents of people with more severe disabilities have to assist them throughout life. They work less, they need a special work regime, a special attitude." (ID16, NGO)*

*"We have staff with reduced work capacity, but we have to pay them full salary. We have 11 employees with disabilities and 4 from disadvantaged categories out of 25 employees. These people work less time, according to labour legislation, but also less qualitatively." (ID19, SE)*

6. *Lack of a sales market* - some respondents pointed out difficulties in identifying potential consumers, both because of the small market and because of the niche segment in which they operate.

*"Barriers in activity: small sales market, we have started to provide services for clients from abroad; we have not found a business model that is profitable, although we have had training on this subject, we are constantly experimenting; the relatively narrow field of activity, not everyone is interested in ecology." (ID18, NGO)*

7. *Poor promotion of the social entrepreneurship concept* both at the level of educational institutions, by including in the curriculum the study of social entrepreneurship terms, and at community level, by developing civic and entrepreneurial spirit by local public authorities. Policy interventions are needed to integrate the concept of social entrepreneurship and include entrepreneurship in the education program in schools, but also to cultivate it at the level of local public authorities, by encouraging local CSOs to carry out social entrepreneurship activities for sustainable development of the community. The concept of social economy is barely known both among the entities that could implement projects, and among the beneficiaries, as no specific actions are taken to promote social entrepreneurship. For this reason, it is necessary to increase the awareness in the importance of the social economy sector, the advantages of implementing such projects, as well as to increase the degree of involvement of local communities in sustainable development.



## CONCLUSIONS

- ❖ The legal and regulatory framework for social entrepreneurship, although sufficiently explicit, does not fully reflect the needs and aspirations in the field;
- ❖ SEs and WISEs cannot be perceived and registered as separate legal entities, given the conditions for obtaining their status. The registration of SEs or WISEs, as well as the registration of modifications in their establishment documents would be much easier under the conditions of a special law, which would regulate these legal entities;
- ❖ Although there are mechanisms for procurement of works and services from CSOs by LPAs, such as social order, CSOs and the companies founded by them have limited information on these opportunities. There are no well-established mechanisms to support SEs and WISEs by the state, but there are operational subsidy mechanisms provided for specialized enterprises created by the Association of Invalids of the Republic of Moldova, the Association of the Blind of the Republic of Moldova and the Association of the Deaf of the Republic of Moldova;
- ❖ Microfinance products remain inaccessible to Moldovan social enterprises due to the economic vulnerability of social enterprises, high risks, high interest rates and other related issues; financing is not provided by financial and banking institutions;
- ❖ Businesses and social enterprises are either not yet profitable or they generate low profits that do not allow for financial independence. The development of social entrepreneurship initiatives is conditioned by the existence of funding programs of donor organizations. In this context, there is a risk that social entrepreneurship initiatives will not develop further once the project that led to their foundation is over;
- ❖ Although Law No. 845/1992 stipulates that the state provides tax facilities for the development of social entrepreneurship, the Tax Code does not provide special facilities for SEs and WISEs, these enterprises having the same tax regime as LLCs. The situation regarding payment of income tax from the operational activity of SEs and WISEs remains unclear;
- ❖ Even though the legislation provides for an evaluation mechanism, in practice, there is no unified system for monitoring and evaluation of social enterprises in Moldova. Donors and organizations providing support to social enterprises use their own methodologies for monitoring and evaluation of social enterprises/NGOs. Often these activities are limited to monitoring the project as a whole and do not focus on economic activities;
- ❖ The concept of social entrepreneurship is addressed only tangentially in the field of education. As the school curriculum is quite complex and busy, it is not recommended to introduce a separate discipline on social entrepreneurship.



## RECOMMENDATIONS

- ❖ Drafting a special law, which would prioritize the social entrepreneurship concept and allow the issues in the field to be addressed appropriately through general legislation. The legal framework should identify and develop support mechanisms for social economy entities, create a proper environment to adjust measures to the specific needs of social economy. The adoption of a special law would make it possible for the SEs and WISEs to benefit from the percentage designation, along with non-profit organizations;
- ❖ Harmonisation of the legal framework related to the special law on social entrepreneurship;
- ❖ Development of state mechanisms and special banking products to finance SEs and WISEs, as well as the inclusion of social enterprises in existing financing mechanisms and programmes;
- ❖ Encouraging at state level the procurement of goods, works and services from social enterprises through reserved contracts, improving the social order mechanism;
- ❖ Development of incentives for companies that purchase goods, works and services from social enterprises;
- ❖ Extending the subsidy mechanisms provided to specialized enterprises created by the Association of Invalids of the Republic of Moldova, the Association of the Blind of the Republic of Moldova and the Association of the Deaf of the Republic of Moldova to cover social enterprises and work integration social enterprises;
- ❖ Developing a clear fiscal mechanism for taxation of the SEs and WISEs, that would stipulate an income tax from operational activity (ITOA) of 4%, and setting a preferential tax quota for their employees, by introducing the relevant modifications to chapter 7<sup>1</sup> of the Tax Code in order to combine tax incentives for disabled employees in WISEs and the taxation of the company itself, reducing its tax burden;
- ❖ Approval of a single and mandatory methodology for all local public authorities on calculating fees for SEs and WISEs. Additionally, annual indexation of local taxes is proposed based on inflation indicators;
- ❖ Development, approval and implementation of a unified system for monitoring and evaluation of social enterprises, applicable by both NCfSE and social enterprises, which would combine the assessment of the social impact of the SE in the community and its profitability;
- ❖ Development of educational programs in the field of social entrepreneurship by including a chapter in entrepreneurship education, training of skills and practical knowledge among students in the field of social entrepreneurship, to be acquired by involving practitioners in the curricular activities;



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- ❖ Cultivating the concept of social entrepreneurship at the level of local public authorities, by encouraging local CSOs to carry out social entrepreneurship activities for a sustainable community development;
- ❖ Elaboration of training methods for local public authorities in order to value the potential of communities in the development of social entrepreneurship (possible amendments to Law 436/2006).



EU4Youth

## CHAPTER II

# Report with conclusions and recommendations on the elaboration of amendments to the legal framework on social entrepreneurship in Moldova

(access to public and private financial resources; specifics of public procurement and participation of social enterprises and work integration social enterprises in these procedures)

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## INTRODUCTION

The “EU4Youth - Unlocking the potential of young social entrepreneurs in Moldova and Ukraine” project helps to foster the social entrepreneurial potential of young people in Moldova and Ukraine by establishing a favourable environment for social enterprises as well as by inspiring and supporting more young social entrepreneurs to develop and sustain their innovative solutions towards promotion of social inclusion and environmental sustainability across both countries. The project is funded by the European Union under its EU4Youth Programme. The project will be implemented by a consortium including the following organizations: Gustav-Stresemann-Institut (GSI), Germany – the lead, Pro NGO! (Germany), AXA Management Consulting (Moldova), ECO-RAZENI Association (Moldova), CONTACT (Moldova), and Egalite International (Ukraine).

The strategic objective is to improve the capacity of youth-owned social enterprises to fight unemployment, reduce migration and contribute to social inclusion and cohesion in the Eastern Partnership regions.

The specific objectives of the project are:

- to improve the legal framework for social entrepreneurship in Moldova and develop such legislation for Ukraine based on Moldova’s best-practices;
- to improve the capacity of young social entrepreneurs in business administration, fundraising, and advocacy activities for promoting social enterprises’ interests through the development of a Moldovan-Ukrainian network of young social entrepreneurs;
- to motivate more youth in Moldova and Ukraine to start social start-ups and recognize their contribution to social inclusion and reduction of inequalities;
- to strengthen relevant business support structures for young entrepreneurs in both countries, including start-up funding.

To perform the assignment and to formulate the recommendations and amendments related to the legal and regulatory framework of social entrepreneurship in the Republic of Moldova in the context of defining registration process, tax and non-tax facilities, and private financing of social enterprises, the team members based on their expertise and experience have performed a comprehensive analysis using the methods and tools described in the Table below.



Table 1. Research methodology

Research stage	Methods and tools
<p><b>Secondary research</b></p>	<p>Performing the <b>legal desk research</b> of the relevant specific legal framework on social entrepreneurship such as:</p> <ul style="list-style-type: none"> <li>• Tax code No. 1163-XIII of 24.04.1997</li> <li>• Law for the implementation of titles I and II of the Fiscal Code No. 1164/1997</li> <li>• Law on Entrepreneurship and Enterprises 845/1992;</li> <li>• Law on non-profit organizations 86/2020;</li> <li>• Law on non-bank lending organizations no. 1 of 16.03.2018</li> <li>• Law on Social Services 123/2010;</li> <li>• Law on Social Inclusion of Persons with Disabilities, 60/2012;</li> <li>• Government Decision No. 1165 of 28.11.2018 on the approval of the Regulation on the organization and functioning of the National Commission for Social Entrepreneurship and the list of types of activity that constitute social entrepreneurship activities; and research of other official reports published on <a href="http://www.antrenoriatsocial.md">www.antrenoriatsocial.md</a> in order to strengthen the existing legal framework, describe current situation and identify gaps and formulate recommendations.</li> </ul> <p>2. Performing desk analysis of current financing options for social enterprises in Republic of Moldova</p>
<p><b>Primary research</b></p>	<p><b>In-depth online interviews</b> with 5 representatives of the Public Services Agency/ State Tax Service and bank/non-banking financial institution representatives;</p> <p><b>In-depth online interviews</b> with 5 representatives of social enterprises;</p> <p><b>An online focus group discussion</b> for a group of 15 participants, that has included social entrepreneurs, NGO leaders, National Commission for Social Entrepreneurship representatives, public authority representatives from key fields and other relevant stakeholders;</p> <p><b>Data analysis</b> – correlation and adjustment of the primary research using data from baseline report and summaries of the interviews and focus group session.</p>
<p><b>Recommendations</b></p>	<p><b>List of recommendations and amendments</b> – based on the legal research and analysis of the legal framework, the expert team will advance a series of recommendations for amending the legal and regulatory framework regarding the registration process, tax and non-tax facilities, private financing, in order to improve the social entrepreneurship sector.</p>

The methodology of the study was in compliance with the initial design and plan, but some of the changes can be summarized below.





**In-depth online interviews** were conducted with representatives of three different stakeholder categories and have drawn on their varied experience described as follows:

- social entrepreneurs were open to discuss posed questions sharing their experience and suggesting additional information;
- representatives of the Public Services Agency/State Tax Service were very difficult to get in touch with, because of the rigid system and hampered communication;
- bank/non-banking financial institution representatives were open for discussion, but were more reluctant to provide their input arguing a lack of knowledge about social entrepreneurship and state policy regarding this sector.

An **Online focus group** discussion was organized for a group of 15 participants, that included social entrepreneurs, NGO leaders, National Commission for Social Entrepreneurship representatives, public authority representatives, fiscal experts, business experts, bank and non-banking financial institution representatives. Four out of 15 participants were absent, but the other 11 got seriously involved in the proposed activities.

## PRELIMINARY FINDINGS

In the framework of the desk research the preliminary findings were identified regarding the existing regulatory framework for SEs in Moldova, national strategies and policies on development of SEs in Moldova, concerning the following areas:

- the current norms and procedures required for opening, registration, and development of a social enterprise;
- the current tax rulings and fiscal facilities relevant for SEs;
- the current legal framework for private funding of SEs.

To conduct a policy scan and identify preliminary recommendations to improve the legal and regulatory framework regarding the social entrepreneurship activity in the Republic of Moldova the following pursuits were considered:

- Identification of supportive policies/regulations that were adopted but are not being enforced;
- Identification of existing policies/regulations that should be changed;
- Finding out gaps that need to be addressed with new policies/regulations in favour of social enterprises;
- Tracking government funding history for specific issues regarding social entrepreneurship development.

## CURRENT NORMS AND PROCEDURES REQUIRED FOR OPENING, REGISTRATION AND DEVELOPMENT OF A SOCIAL ENTERPRISE



The basic law governing entrepreneurship activity, including social entrepreneurship, is the Law of the Republic of Moldova on Entrepreneurship and Enterprises. The legal framework is completed by the following Laws and Orders:

- Law on Non-Profit Organizations, No. 86 of 11.06.2020, art. 6.
- Law on Entrepreneurship and Enterprises, No. 845-XII of 3.01.1992, Chapter VI1.
- Law of the Republic of Moldova on Foundations No. 581-XIV of 30.07.1999, art. 231.
- Law on Social Services, no. 123 of 18.06.2010, art. 11 (2).
- Law on Social Inclusion of Persons with Disabilities, No. 60 of 30.03.2012, art. 32, 36;
- Law on Employment and Social Protection of Persons seeking Employment, no. 102-XV of 13.03.2003.
- Law No. 223 of 02.11.2017 on amending and supplementing some legal acts.
- Government Decision No. 1165 of 28.11.2018 on the approval of the Regulation on the organization and functioning of the National Commission for Social Entrepreneurship and the list of types of activity that constitute social entrepreneurship activities.
- Order of the Minister of Economy and Infrastructure no. 130 of 23 May 2019 regarding the establishment of the National Commission for Social Entrepreneurship.
- Basel III International Regulations.
- Regulation on Banking Activity Management Framework No. 322 of 20 December 2018 (in effect as of 4 April 2019).

According to the Law No. 845/1992 on Entrepreneurship and Enterprises, art.1 "entrepreneurial activity" represents the activity of production, manufacturing, execution of works and provision of services, carried out by citizens and their associations independently, on their initiative, on their behalf, at their own risk, and under responsibility with their own property, in order to obtain a permanent source of income."<sup>8</sup>

In November 2017, a separate chapter about social entrepreneurship and social enterprises was introduced in the Law on entrepreneurship and enterprises, which entered into force on 24 June 2018. Thus, social entrepreneurship is an entrepreneurial activity with main purpose to solve social problems in the interest of the community. The list of types of social entrepreneurship activity is established by the Government, while a social enterprise is believed to be an enterprise focusing on at least one of the objectives described in the Figure presented below.

According to the law, non-commercial organizations (public associations, foundations, religious denominations and private institutions) limited liability companies and production cooperatives, can operate in terms of a social enterprise after obtaining the status of social enterprise or work integration social enterprise under Articles 36<sup>2</sup> and 36<sup>3</sup> of Law No. 845/1992 on entrepreneurship and enterprises.

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<sup>8</sup> Law on Entrepreneurship and Enterprises, no. 845 of 03.01.1992, art. 1



### SOCIAL

Creating jobs and employment, as a priority, for people from disadvantaged categories of the population;

Protecting and promoting the rights of people with disabilities and their families for their social inclusion;

Promoting the possibilities of employing people from the disadvantaged categories of the population through the provision of labour mediation services, information and professional counseling, guidance and training, counseling and assistance in starting an entrepreneurial activity;

Carrying out activities that contribute to the implementation of public regional development policies, including reducing imbalances between the levels of socio-economic development in and within regions, strengthening financial, institutional and human opportunities for the socio-economic development of the regions, supporting the work of local public administration authorities and local authorities, oriented towards the socio-economic development of localities and coordination of their interaction with national, sectoral and regional development strategies and programs;

The provision and development of social services as well as financial sustainability for the development and expansion of social services.

### CULTURAL

Promotion of national heritage protection activities;

Realization of tourism and sports activities for recreation and socialization;

Carrying out extracurricular activities;

Carrying out activities in the fields of education, culture, health care, protection and social assistance, welfare and community development, if these activities are directed solely towards the strengthening of economic and social cohesion and increasing social inclusion.

### ENVIRONMENTAL

Promoting environmental protection activities;

Waste management in order to reduce them and maximally re-introduce them into the economic circuit, as well as to prevent environmental pollution.

**Figure 1. Social entrepreneurship activity type**

Source: Law no. 845/1992 on entrepreneurship and enterprises, completed with Chapter: Social entrepreneurship and social enterprise



By Decision No. 1165 / 28.11.2018, the Regulation on organization and functioning of the National Commission for Social Entrepreneurship and the list of types of activities that constitute social entrepreneurship activities was approved. The Regulation contains stipulations concerning the organization and functioning of the Commission, its nominal composition, the method of granting and withdrawing the status of social enterprise or work integration social enterprise, including the procedure for review of applications for granting such status, as well as control regarding compliance with the status of social enterprise or work integration social enterprise.

According to Regulation on the organization and functioning of the National Commission for Social Entrepreneurship, the Commission is composed of 11 members (Chairman, Vice-Chairman and members of the Commission):

- two representatives from the Ministry of Economy and Infrastructure, one representative from each of the Ministry of Health, Labour and Social Protection, the Ministry of Agriculture, Regional Development and Environment, the Ministry of Finance and the Ministry of Justice, at the level of Secretary of State, appointed in the established manner by the relevant Minister;
- a representative of the Congress of Local Authorities of Moldova, appointed in the established manner;
- 4 representatives of non-commercial organizations carrying out social entrepreneurship activities and of social enterprises, including work integration social enterprises, selected in the established manner.

To be granted the status of social enterprise or work integration social enterprise, it is necessary to file to the National Commission for Social Entrepreneurship a set of documents confirming performance of social entrepreneurial activity. Currently, only 4 social enterprises have received the social enterprise status.

Such status is awarded for three years, with the possibility of extension if it is proved that the conditions underlying the award of the status have been observed and it is obtained from the moment of registration of the words "Social enterprise" or "Work integration social enterprise" in the enterprise incorporation documents and in the State Registry in which the legal entity is registered (see Table No. 2 for a detailed description). The institution with state registration competences for registry of individual entrepreneurs and legal entities is the Public Services Agency (Department of Registration and Licensing of Legal Entities).

A potential social entrepreneur can register either with a social enterprise status or a work integration social enterprise status. The legal framework for social entrepreneurship provides the following guidance in practical aspects regarding social enterprise registration and applicable tax facilities.

Table 2. Registration of a social enterprise

	Social enterprise status	Work integration social enterprise status
Legal form	Should be registered at Public Services Agency (Legal status: Legal entity)	Should be registered at Public Services Agency  (Legal status: Legal entity)



	<p>The social enterprise is an enterprise constituted by public associations, foundations, religious denominations, private institutions and / or natural persons that carry out social entrepreneurship activities.</p> <p>The status of social enterprise can be obtained by limited liability companies and production cooperatives, consisting of public associations, foundations, private institutions, if they reinvest at least 90% of the profit in carrying out the activities mentioned above, do not have debts to the national public budget, apply the principle of social equity towards employees, ensuring fair pay levels, in which there can be no differences exceeding the 1 to 5 ratio.</p>	<p>Work integration social enterprises are social enterprises that aim to create jobs and, as a matter of priority, employ people from disadvantaged groups of the population.</p> <p>There are 2 mandatory cumulative conditions provided by law to obtain the status of a work integration social enterprise:</p> <p>a) at least 30% of the employed personnel should belong to the disadvantaged categories of the population, so that the cumulative working time of these employees shall represent at least 30% of the total working time of all employees;</p> <p>b) creation of jobs and employment for persons from the disadvantaged categories of the population should be expressly stipulated in the constituent document, as an objective, as a priority.</p> <p>The status of social enterprise or the status of work integration social enterprise is assigned by the National Commission for Social Entrepreneurship for a period of 3 years, with the possibility of extension if it is proven that the conditions underlying the award of such status are met, and it is obtained from the time when the phrase "Social enterprise" or "Work integration social enterprise" is entered in the articles of incorporation of the enterprise and in the state register in which the respective legal entity is recorded.</p>
<p><b>Enterprise name (example)</b></p>	<p>The full name of the social enterprise must include, obligatorily, the "name of the company" with the legal abbreviations to which the status of social enterprise will be added, written in the state language.</p>	<p>The full name of the work integration social enterprise will necessarily include the "company name" with the legal abbreviations to which the status of work integration social enterprise will be added, written in the state language, in the incorporation documents.</p>
<p><b>Share Capital (sum)</b></p>	<p>It is determined by the previous legal form and equal in value to the share capital prior to obtaining the status of social enterprise</p>	<p>It is determined by the previous legal form and equal in value to the share capital prior to obtaining the status of social enterprise</p>



<p><b>Bank account</b></p>	<p>Obligatory</p>	<p>Obligatory</p>
<p><b>Registration at Public Services Agency</b></p>	<p>In order to obtain or extend the status of social enterprise, the limited liability companies, non-commercial organizations and production cooperatives (in the statute of which the commercial activity is indicated) present to PSA a file (on paper at the PSA headquarters) containing the following documents:</p> <ol style="list-style-type: none"> <li>1. Application according to a template on assignment or extension of status;</li> <li>2. The minutes of the General Assembly of the members or of the founders by which the amendments and / or completions in the act of incorporation were approved;</li> <li>3. The act of incorporation of the legal entity;</li> <li>4. Confirmation regarding the lack of debts to the national public budget;</li> <li>5. Copy of the identity card of the applicant's manager or of the delegated person;</li> <li>6. The declaration on own responsibility that the applicant fulfils the conditions provided in Article 363 paragraph 1, as the case may be, and paragraph 2 of Law no. 845/1992 on entrepreneurship and enterprises (annex no. 1 and annex no. 2 to the Regulation on the organization and functioning of the National Commission for Social Entrepreneurship approved by Government Decision no. 1165/2018).</li> </ol> <p>For non-commercial organizations, in the statute of</p>	<p>In order to obtain or extend the status of work integration social enterprise, the limited liability companies, non-commercial organizations and production cooperatives (in the statute of which the commercial activity is indicated) present to PSA a file (on paper at the PSA headquarters) containing the following documents:</p> <ol style="list-style-type: none"> <li>1. Application according to a template on assignment or extension of status;</li> <li>2. The minutes of the General Assembly of the members or of the founders by which the amendments and / or completions in the act of incorporation were approved;</li> <li>3. The act of incorporation of the legal entity;</li> <li>4. Confirmation regarding the absence of debts to the national public budget;</li> <li>5. Copy of the identity card of the applicant's manager or of the delegated person;</li> <li>6. The declaration on his/her own responsibility that the applicant fulfils the conditions provided in Article 363, paragraph 1, as the case may be, and paragraph 2 of Law no. 845/1992 on entrepreneurship and enterprises (annex no. 1 and annex no. 2 to the Regulation on the organization and functioning of the National Commission for Social Entrepreneurship approved by Government Decision no. 1165/2018).</li> </ol> <p>In case of non-commercial organizations, in the statute of which the commercial activity</p>



	<p>which the commercial activity is not indicated, first presents to the National Commission for Social Entrepreneurship within the Ministry of Economy and Infrastructure a file containing the above-mentioned documents: (on electronic support to the e-mail address: secretariat.comisia.as@mei.gov.md) and then go to PSA to register the changes.</p>	<p>is not indicated, they should first present to the National Commission for Social Entrepreneurship within the Ministry of Economy and Infrastructure a file containing the above-mentioned documents: (on electronic support to the e-mail address: secretariat.comisia.as@mei.gov.md) and then go to PSA to register the changes.</p>
<p><b>Material liability</b></p>	<p>Equivalent to that applicable to the legal form prior to obtaining the status of social enterprise.</p>	<p>Equivalent to that applicable to the legal form prior to obtaining the status of social enterprise.</p>
<p><b>Form of taxation and facilities</b></p>	<p>Equivalent to that applicable to the legal form prior to obtaining the status of social enterprise plus:  a) free advice from public authorities and institutions on setting up and / or developing the business;  b) the right to participate in the procedures for awarding public procurement contracts, in accordance with the legislation on public procurement;  c) state aid through state programs approved in compliance with the relevant legislation;  d) facilities from the local public administration authorities.</p>	<p>Equivalent to that applicable to the legal form prior to obtaining the status of social enterprise plus:  a) free advice from public authorities and institutions on setting up and / or developing the business;  b) the right to participate in the procedures for awarding public procurement contracts, in accordance with the legislation on public procurement;  c) state aid through state programs approved in compliance with the relevant legislation;  d) facilities from the local public administration authorities.</p>

In addition to the above, although the Moldovan legal framework lists the conditions which shall be complied with to obtain the status of social enterprise or work integration social enterprise, it does not provide a clear definition of the “social enterprise”.

Therefore, since a clear definition of the social enterprise is lacking, it is not clear which legal entities could apply for and obtain the status of social enterprise or work integration social enterprise, as, on the one side:

- Law No. 845/1992 states that such status may be obtained by the limited liability companies and production cooperative established by public organizations, foundations, religious groups, private institutions and / or individuals;



while on the other side,

- the Law No. 86/2020 states that non-profit organizations may carry out economic activity, including social entrepreneurship, directly. Also, Government Resolution No. 1165/2018 states that the status of social enterprise or work integration social enterprise is obtained from the moment of registration of the phrase “social enterprise” or “work integration social enterprise” in the statute of the non-profit organization, limited liability company or production cooperative.

Therefore, any potential applicant has no certainty on which legal entity it should establish and further on how to apply for the status of social enterprise or work integration social enterprise, as Law No. 945/1992 provides for a hybrid form meaning a limited liability company or production cooperative established by other entity (e.g. a public organization) or individual, while under the Government Resolution No. 1165/2018 which regulates the procedure for obtaining the status of social enterprise or work integration social enterprise, states that there are no limitations for non-profit organizations such as public organizations or foundations, to obtain directly the status.

As consequence, the lack of certainty may lead to issues such as the refusal of registration of the relevant amendments in the public register kept by the competent authority.

Another important fact that should be noted is the difference between tax facilities regarding the different legal status before obtaining the status of social enterprise. For example, public organizations have the right to attract income taxes from private organizations and individuals, based on their status as public organizations. Limited Liability Company (LLC) organized as a social enterprise is not eligible for such a fiscal facility.

According to the “Report on entrepreneurship analysis”, elaborated with the support of the Project “Advising the Government of the Republic of Moldova on economic policies”, implemented by GIZ Moldova with the financial support of the Federal Ministry for Economic Cooperation and Development of Germany (BMZ) and the Swiss Agency for Development and Cooperation (SDC) in September 2019, another important aspect of social enterprise is management. Its quality is expected to be as high as in the classical economic sector, but the main goal of management is not to maximize profit but to fulfil the social mandate of the organization. This leads to a management approach, based rather on the partnership with customers and beneficiaries and to a more participatory way of running the organization.

Owing to the global economic crisis due to the economic consequences of the ongoing COVID-19 pandemic and limited experience in business existing social entrepreneurs have faced big challenges during this period. This situation is due to the fact that most of the social enterprises were started by non-profit organizations without much experience in business management; thus social entrepreneurs revealed many weak points and still struggle for survival on the market. Therefore, continuous financial and non-financial assistance is very important in supporting continuity and development of the social enterprise sector.

## CONCLUSIONS

Social entrepreneurship initiatives in the Republic of Moldova include 48 organizations operating in differentiated organizational-legal form. 63% of organizations have legal status as public organizations and 37% are limited liability companies. Analysing their development stage, only 24 of these organizations are active and could submit their files to receive social





enterprise status, taking into account their organizational objectives and mission.<sup>9</sup> But due to the limited work of the National Social Entrepreneurship Commission as a result of the current pandemic restrictions, the process of awarding the status of Social Enterprise stagnates. Currently, we have only 4 enterprises that have been assigned the status of Social Enterprise and have been registered with the Public Services Agency.

Social entrepreneurship in Moldova is in its early stages of development and cannot grow without a series of constant efforts and support by all actors involved. In addition to the legal framework, it is necessary to initiate concrete measures to create a development-friendly ecosystem: access to various financing instruments and markets, business support structures, human resources development, and research, differentiated tax and non-tax facilities by types of social enterprises, etc.

A successful development of social enterprises in the Republic of Moldova will be possible when an explicit, complex legal framework on social entrepreneurship activity and clear regulatory methodology is in place.

### **CURRENT PRIVATE FINANCING OPTIONS FOR SOCIAL ENTERPRISES IN THE REPUBLIC OF MOLDOVA**

Having performed an overview of the financial market of Moldova to distinguish potential sources of financing for the social entrepreneurship sector, no particular tools for social enterprises financing were found. Nevertheless, small and medium classic enterprises have as options: banks and non-banking financial institutions.

The banking sector operates on the market according to the requirements of Basel III, therefore the social enterprises do not qualify to be financed by banks.

Non-banking financial institutions might be available for reimbursable funds. The market structure of nonbanking financial (NBFi) is dispersed. According to the institutional profile, maturity, strategy, and business conditions of each NBFi, three basic levels of nonbanking financial institutions might be accessed by SMEs and accordingly social enterprises (SEs) which are a part of SMEs. This categorization is further defined in terms of service coverage, level of price, competence, and expertise.

*The first category of NBFIs* in the emerging stages consists of the majority of leasing companies, microfinancing institutions (MFI), credit and savings associations, informal-sector intermediaries (especially those working in rural areas), and even individuals who provide financial services. These NBFIs operate spontaneously to fill market niches and charge very high rates of interest on loans to meet the demand of mostly poor people who work and do business in the informal sector.

*The second category of NBFIs* are institutions that are in a full growth and expansion phase, becoming financially self-sufficient, and increasing their outreach to a high number of clients who previously had no access to financial services. Such institutions as Credit Rapid, Express Leasing, Microinvest, and Easy Credit can be considered in this category. The highest strategic priority of the mentioned companies is getting a considerable profit margin in a very short period. The products provided by these companies are oriented to small and very small businesses and consumer lending clients charging high-interest rates, high disbursement fees, and monthly maintenance fees and in some cases the fee for the review of the client

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<sup>9</sup> Baseline report “EU4YOUTH - Unlocking the potential of young social entrepreneurs in Moldova and Ukraine”



application. Usually, the projects are financed in 70% of cases for one-year maturity, and the nominal interest rate is calculated to initial capital disbursed.

*The third category of NBFIs* is fully mature financial institutions that are integrated into the formal non-banking financial sector, either as leasing companies or MFIs. These institutions have a well-defined status on the market; they have a strategy, market recognition of their brands. They are registered as MFIs mostly having as main target SMEs or operating mainly in a specialized area such as mortgage and afterward expanding in other areas such as agribusiness financing. Among main characteristics of this category are:

- ✓ readiness to adhere to financial-sector discipline;
- ✓ evolving in a manner that enables them to follow best practice principles and standards and to operate as professional, business-oriented financial institutions;
- ✓ access to seed capital, such as grants that support start-up operations and expansion;
- ✓ providing quality financial services that are in demand among SMEs.

The following companies fall under this category: “Prime Capital” (a mortgage company with 100% American capital, now starting to diversify its activities via financing agribusinesses, which has good clients base, regional network, is very visible on the market, has access to long term international resources), “Corporația de Finanțare Rurală” (mixed capital company which has diversified funding from IFIs, oriented to finance primarily to SMEs, it has good reputation on the market, a long prove track record in dealing with SMEs, access to different governmental cheaper funds designed for agriculture sector, a well-developed regional network), “BT Leasing” and “Total Leasing |& Finance” (both of them 100% foreign investment, deal mostly with leasing operations, are oriented to SME sector financing, have very aggressive pricing policy) and “MAIB Leasing” (the largest leasing operator, a part of the group, its mother company being the biggest bank on the market; due to this has access to economical strategic deals such as infrastructure, big projects in production sector jointly with the bank).

As SMEs have access to considerably lower financing sources in all the economies as compared to large enterprises, for the developing countries such as the Republic of Moldova this problem is even more up-to-date. The main reasons for the lower financing capacity of SMEs are:

- Lack of/insufficient information regarding particular SMEs for potential investors;
- Higher administrative and transaction costs;
- Lack of/insufficient pledge;
- Banking sector conservatism and high-interest rates;
- Extending access to financial services to the remotest of rural areas in a cost-effective manner;
- The pervasive impression that microfinance is a social system of resource transfers to “beneficiaries” at subsidized interest rates, rather than a part of the financial sector (this impression explains largely why national enabling environments still restrict MFIs from mobilizing savings and prevent them from achieving financial self-sufficiency due to interest rate ceilings);
- Institutional infrastructure is needed for microfinance, including service providers such as training institutes, accountancy, credit bureaus, and information technologies;




- The ability to serve the “missing middle,” that is, small- and medium-scale enterprises that grow beyond the capacity of an MFI to serve, but are still unable to access financial services from financial institutions;
- The cost of lending in rural areas is relatively high as a result of low population densities combined with low loan volume, poor transportation and communication facilities, which make for very high per unit delivery costs for small financial transaction and for many larger institutions, which often operate in urban areas, while it is not worthwhile for them to move substantial investment required into rural areas;

Successful models of savings and credit associations and village banks have not been developed yet.

In practice, social entrepreneurs can obtain financing based on their legal status (physical or legal person), by providing pledges, and a document on financial situation proving payment capacity. The financing options available for small and medium enterprises are presented in the figure below.

Figure 2. Classification of financing products

Classification of credit products				
	Banks	Leasing companies	Non-Banking Financial Institutions	Savings and loan associations
				
<b>Purpose of financing</b>	<ul style="list-style-type: none"> <li>✓ Investment loan</li> <li>✓ Credit line</li> <li>✓ Overdraft</li> <li>✓ Incasso</li> <li>✓ Letter of guarantee</li> <li>✓ Factoring contract</li> </ul>	<ul style="list-style-type: none"> <li>✓ Car loans</li> <li>✓ Loans for agricultural equipment and machinery</li> </ul>	<ul style="list-style-type: none"> <li>✓ Investment loans</li> <li>✓ Loans for fixed assets</li> <li>✓ Loans for working capital</li> </ul>	<ul style="list-style-type: none"> <li>✓ Loan for the purchase of the real estate, equipment</li> <li>✓ Loan to finance working capital</li> </ul>
<b>Credit period</b>	<ul style="list-style-type: none"> <li>✓ Long-term loans (49-240 months)</li> <li>✓ Medium-term loans (13-48 months)</li> <li>✓ Short-term loans (1-12 months)</li> </ul>	Term loans from 12-60 months	<ul style="list-style-type: none"> <li>✓ Long-term loan (37-120 months)</li> <li>✓ Short-term loan (1-36 months)</li> </ul>	<ul style="list-style-type: none"> <li>✓ Long-term loans up to 120 months</li> <li>✓ Short-term loans up to 12 months</li> </ul>
<b>Amount awarded</b>	Varies depending on the institution, purpose, term, and payment capacity from 20 thousand MDL - 2 million MDL			
<b>Pledge/warranty</b>	Real estate, automobile, equipment, goods, surety	Real estate pledge, automobile, equipment, surety	Real estate pledge, automobile, equipment, surety	Real estate pledge, automobile, equipment, surety
<b>Minimum credit coverage</b>	Depending on the product (from 30 to 50%)	Minimum 20% of the total value of the financed asset	Depending on the product (from 30 to 50%).	Depending on the product (from 30 to 50%)

### CONCLUSIONS

The development of financing products for social enterprises in Moldova is hindered by several natural factors including the high risk associated with the uncertainty of the business continuity, financial performance, and lack of traditional physical collateral normally required by financing institutions. Thus, the cost and risks associated with the delivery of lending services for social enterprises which are located usually in rural areas and have limited collateral are likely to be high, with a negative consequence for the outreach and quality of the portfolio, which reduces the attractiveness of the supply of financing products to social entrepreneurs,



but also the ability of financiers to offer special financing products for the social entrepreneurship sector.

## FIELD PRIMARY RESEARCH

Orderly to have a more efficient approach to the project assignment and to give practical sense to the legal framework research, in-depth online interviews were conducted during the period of 11/27/2020 – 12/08/2020, and a focus group activity was organized on the 9th of December 2020. 6 social entrepreneurs, 1 fiscal expert, 1 PSA representative, 1 bank representative, and another non-banking financial institution were interviewed to find out the main issues regarding social enterprise registration and private financing.

**The first objective** of the in-depth interviews was to identify social entrepreneurs' difficulties regarding enterprise registration and status granting, as well as access to fiscal facilities and private financing.

**The second objective** of the in-depth interviews was to perceive PSA representatives' and fiscal experts' opinions regarding social entrepreneurship experience. The online survey was disseminated through youth organizations members and beneficiaries, but not only.

**The third objective** of the in-depth interviews was to discover the real perception of bank and non-bank representatives about social entrepreneurship in Moldova and identify the potential of private financing actors to diversify their offer on the market.

For data collection and processing Zoom online meetings were held and Excel forms were used.

Moreover, 15 participants were invited to discuss and contribute information towards the development of the social entrepreneurship sector. The participants had diverse profiles intentionally to connect more relevant stakeholders, which have included social entrepreneurs, NGO leaders, National Commission for Social Entrepreneurship representatives, public authority representatives from key fields, fiscal experts, representatives of banks and non-banking financial institutions.

**The fourth objective** of the focus group activity was to identify the essence of the problem, its causes, and consequences. The activity scope was to conduct a needs assessment at the level of our target group to identify the core of the problem and use data already collected from research institutions and previously conducted interviews.

The session was moderated by two facilitators to conduct qualitative and time-efficient sessions. The activity was conducted online for two hours using Zoom Platform and Miro Online Whiteboard.

### ***Online in-depth interview with representatives of the Public Services Agency/ State Tax Service***

The most challenging aspects in communication with stakeholders were to get in touch with Public Service Agencies and State Tax Service representatives. The project team has faced difficulties in making contact with this category of stakeholders. Nevertheless, some of the information received is summarized and concluded in the table below.

[Table 3. Results of in-depth interviews with representatives of the Public Services Agency/ State Tax Service](#)



Question	Answer
In your opinion, what kind of people have the initiative to run a social enterprise? Who are these people, what are their backgrounds? Are they from the business sector or the NGO sector?	<i>Respondent stated that he/she was not allowed to answer such question.</i>
In general, how easy or difficult it is for a social entrepreneur to create and register a social enterprise? How often do you meet new requests for social enterprise registration?	<i>Respondent stated that he/she was not allowed to answer such question.</i>
What is the trend of applications for registration of social enterprises in the last 2 years?	<i>Respondent stated that he/she did not know the answer to the question.</i>
What is the nature of the questions you receive from social entrepreneurs?	<i>Respondent mentioned the following: -Legal / Clarification of legal aspects -Fiscal (tax exemptions, tax facilities, etc.)</i>
Would the organization you represent be interested in promoting social enterprises? What is your personal opinion/attitude about that? Would you express your opinion to your superiors about that?	<i>Respondent stated that he/she was not allowed to answer such question.</i>

**Online in-depth interview with representatives of bank and non-banking financial institution representatives**

Bank and non-banking financial institution representatives were more open to discuss, but slightly reluctant to contribute their input to the discussion arguing a lack of knowledge about social entrepreneurship and state policy regarding the sector. Consequently, the general opinion is concluded in the table below.

Table 4. Results of in-depth interviews with representatives of the bank and non-banking financial institution representatives

Question	Answer
In your opinion, what does social entrepreneurial activity mean? What differences do you notice between social entrepreneurship and classic business?	<i>I think entrepreneurship is to obtain profit, while other social activities are considered supplementary.</i>



<p>In your opinion, what kind of people have the initiative to run a social enterprise? Who are these people, what are their backgrounds? Are they from the business sector or the NGO sector?</p>	<p><i>I think social entrepreneurs come from the NGO sector and volunteers but could be business people who want to have an impact on society or large companies who aim to impress the public through philanthropic actions.</i></p>
<p>Social enterprises are aimed firstly to implement solutions to social, cultural, or environmental issues and secondly to earn profits. In your opinion, does your organization share these values and priorities?</p>	<p><i>All responses were in the affirmative. There are several social activities which were mentioned by respondents:</i></p> <ul style="list-style-type: none"> <li>- <i>Tree planting;</i></li> <li>- <i>Paper use reduction;</i></li> <li>- <i>Donations for social causes and social campaigns;</i></li> <li>- <i>Internal process digitalization;</i></li> <li>- <i>Customer service digitalization (online credit request, online bank deposits);</i></li> <li>- <i>Reserve funds for medical personnel.</i></li> </ul>
<p>Which, in your opinion, are the main financing sources of social enterprises? Why do you think so?</p>	<p><i>The main financing sources of social enterprises are non-reimbursable financing (grants, donations, crowdfunding), but sometimes, rarely, there may be other business financial support, because social enterprises used to be NGOs.</i></p>
<p>What kind of financial support do you think your institution can contribute to social enterprises development? What are the most suitable financial products for social enterprises?</p>	<p><i>Responses were diverse: one respondent gave a negative response and argued about business uncertainty of SE, lack of collateral, and high cost of financing products. A better solution would be fiscal facilities for business support and deduction of expenses.</i></p> <p><i>but another one mentioned the following options for the potential SE financing: state guarantee of loans, state support in interest compensation, preferential financial products, but enterprise should assure continuous cash flow and high rate of liquidity.</i></p>
<p>What do you think, will your institution earn more visibility and strengthen its reputation on the market if it finances social enterprises?</p>	<p><i>Yes, that will have a great impact because I hear more and more people talking about social entrepreneurship.</i></p>
<p>What kind of support do you want from the state in order to contribute to social enterprise development by creating new financing products?</p>	<p><i>The following ideas were identified in responses:</i></p> <ul style="list-style-type: none"> <li><i>Interest subsidies</i></li> <li><i>State guarantees (pledge, insurance)</i></li> <li><i>Government support and collaboration</i></li> </ul>



**Online in-depth interview with representatives of young social enterprise representatives**

Social entrepreneurs were open to discuss posed questions sharing their experience openly and suggesting additional information and formulating recommendations referring to international experience. Consequently, the general opinion is concluded in the table below.

Table 5. Results of in-depth interviews with representatives of young social enterprise representatives

Question	Answer
<p>Social enterprises aimed firstly to implement solutions to social, cultural, or environmental issues and secondly to earn profits. In your opinion, does your organization share these values and what are major priorities? How do you lobby your social activity?</p>	<p><i>Interviewed social entrepreneurs mentioned all three social objectives as major priorities: to implement solutions to social, cultural, or environmental issues. The respondents lobby their social activity through local mass media, educational marketing activities (master classes, webinars, workshops, public events), and social awareness campaigns.</i></p>
<p>What are the main financing sources of your social enterprises? How often have you contracted a bank credit/nonbanking loan in order to finance your social enterprise activity? Will you access private financing if banks and nonbanking financial institutions would offer special financing products adjusted to social enterprises profile (needs)?</p>	<p><i>Main financing sources of social enterprises are the following:</i></p> <ul style="list-style-type: none"> <li>- 5 out of 6 respondents finance their business by using donations and grants,</li> <li>- 4 out of 6 respondents mentioned that use personal savings and reinvest profit for business settlements and development,</li> <li>- 1 out of 6 respondents used crowdfunding for financing,</li> <li>- and only 1 out of 6 respondents used private financing (bank credit and loans) for business development.</li> </ul> <p><i>Moreover, 4 out of 6 respondents (66%) answered that they needed and were ready to contract a bank credit or a loan for the future development of the enterprise.</i></p>
<p>What is your opinion, the required package of documents must be simplified for the registration of social enterprises / obtaining the status of social enterprise? What are the most common impediments to registration?</p>	<p><i>Most of the respondents mentioned that they had studied SE registration procedure, but the registration process was very long because of irregular meetings of the National Commission of Social Entrepreneurship, which took decisions about status granting.</i></p> <p><i>Other respondents mentioned rigid eligibility criteria for status granting and others consider the fee for enterprise registration of statute modification to be inappropriate.</i></p>



<p>What are the fiscal facilities most used by your social enterprise? What are the barriers in accessing fiscal facilities? If you could, what would you improve for a better/larger use of social enterprises fiscal facilities?</p>	<p><i>4 out of 6 respondents have declared that they did not use any fiscal facilities. Only 2 of them, which are organized as a non-profit organization have rental tax facilities, some local taxes, and used income tax attraction through the 2% Law.</i></p> <p><i>The barriers to access to fiscal facilities are the following:</i></p> <ul style="list-style-type: none"><li><i>- Fiscal facilities are designed in accordance with the legal form of organization,</i></li><li><i>- Difficult process of obtaining SE status</i></li><li><i>- Cumbersome process of accessing facilities.</i></li></ul>
<p>Since you know that there is a difference between fiscal facilities addressed to different legal status forms before obtaining the status of social enterprise, for example, public organizations have the right to attract income tax from private organizations and individuals (the Law of 2%), based on their status as public organizations, while Limited Liability Companies (LLC) organized as social enterprises are not eligible for this fiscal facility, what do you think about that? If this facility would be available to LLC organized as social enterprises, how would you lobby and promote that?</p>	<p><i>4 respondents consider that this fiscal facility represents a good tool to attract more money and one of them has expressed the idea that this Law should be amended to include companies not only physical persons as potential contributors. In this respect, respondents were open to directly promote collected funds towards good causes to earn the trust of relevant stakeholders.</i></p> <p><i>Other 2 respondents were reluctant to use this facility as it had low efficiency of efforts because of additional cost for lobby activities or impossible to use because of the legal form of enterprise.</i></p>
<p>Starting with 2018, the IT companies benefit from certain tax facilities. For this they must present a package of documents to State Tax Inspectorate and meet certain conditions. In this aspect, the law does not differentiate the form of legal organization. What do you think, for social enterprise it should be similar or they should be granted additional facilities? What would they be?</p>	<p><i>Respondents unanimously came up with a proposal to have differentiated facilities for the social entrepreneurship sector. The crucial argument for that was the intermediate function regarding funds exchange in different forms: contributions, donations received and taxes paid. Many of the respondents had mentioned the following fiscal facilities they consider important for their enterprise development:</i></p> <ul style="list-style-type: none"><li><i>- A lower rate of income tax,</i></li><li><i>- Employees' maintenance cost in terms of taxes on salaries (social and medical contributions). They mentioned the international practice in which the government compensates 50% of deducted taxes for employees working for SE. Or, SE employees could submit a file to receive back their paid social and medical contributions.</i></li></ul>





### *Focus group activity*

As previously performed interviews have identified lots of problems and difficulties regarding the SE sector concerning legal, fiscal, and financing framework - a deeper analysis was needed. Thus, a focus group activity was held, which aimed to identify in-depth causes and effects connected to the actual situation of social entrepreneurship sector “in Moldova, the fact that there are only a few numbers of registered Social Enterprises” and to identify potential solutions driving the development of the SE sector.

Therefore, 15 participants were invited to discuss and contribute information to the development of the social entrepreneurship sector. The focus group participants were intentionally selected from various areas and have included social entrepreneurs, NGO leaders, National Commission for Social Entrepreneurship representatives, public authority representatives from key fields, fiscal experts, representatives of banks and non-banking financial institutions.

To evaluate the current legal framework regarding social entrepreneurship, to comprehend key obstacles for the establishment and development of social enterprises, and to identify strategic objectives to foster the development of social entrepreneurship in Moldova, participants were asked to consider their knowledge, experience, and personal or institutional competences to generate insights during the focus group session. To address both specific directions, participants were split into two subgroups for discussions. The first group discussed to the most important barriers/problems in registering and developing a social enterprise (including fees/package of documents for changing the statute), fiscal and/or non-fiscal facilities available for the social enterprises, and current difficulties in accessing them. The second group discussed to the most important barriers/problems in social enterprises development and their financing needs.

For the group activity were used the “Problem and Solution Tree Analysis” tool. For performing problem analysis participants identified the essence of the problem, its causes, and consequences. For solution tree accomplishment strategic and specific objectives were identified as well as their advantages according to the structured figure presented below (see figure 2, 3). For a detailed examination please consult Annexes 1-8.



Figure 3. Problem Tree Analysis

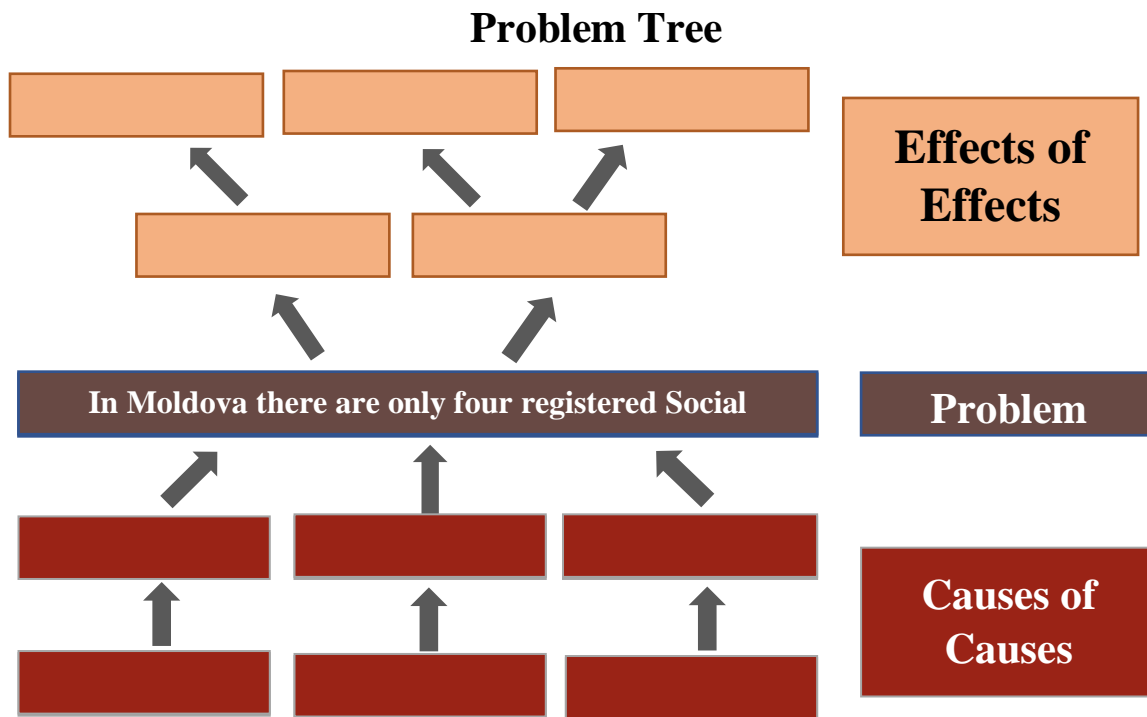
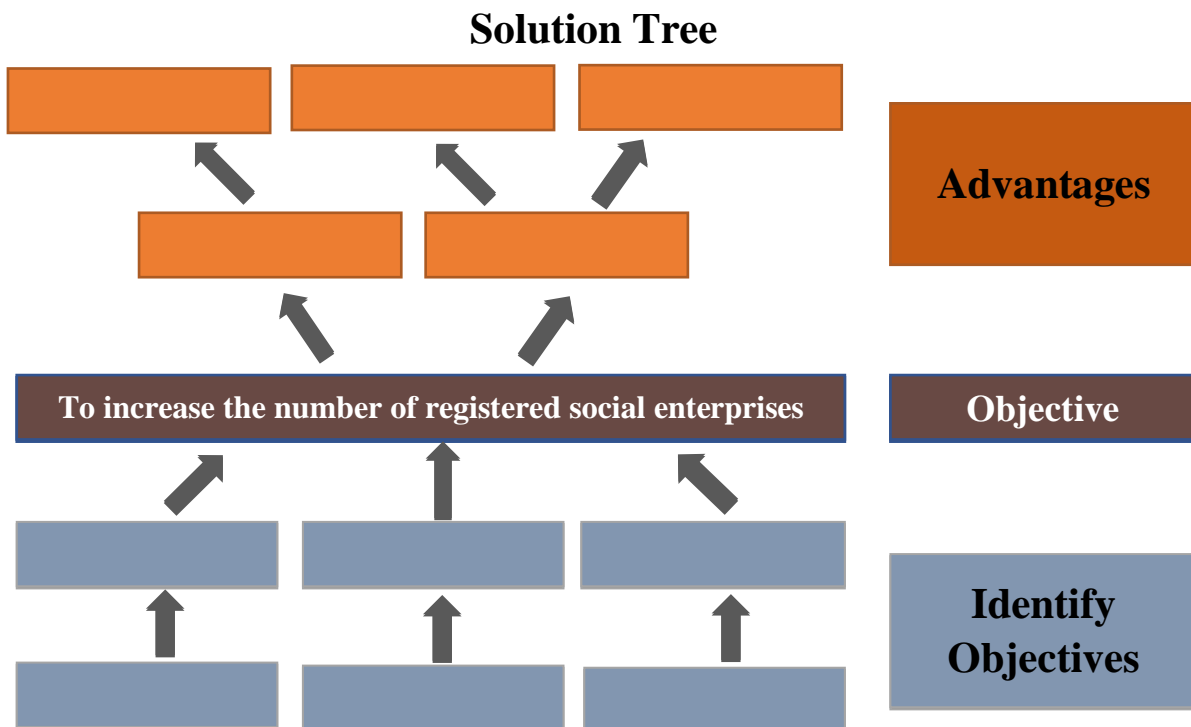


Figure 4. Solution Tree Analysis





As result, the first group has pointed out the following ideas regarding the identified problem “There are few Social Enterprises registered in Moldova” (please see table 6-7 or annexes 1-4 for detailed information).

*Table 6. Causes and causes of causes*

<b>Causes</b>	<b>Causes of causes</b>
Limited information	<ul style="list-style-type: none"> <li>- <i>Minimal promotion and information</i></li> <li>- <i>Limited number of successful models</i></li> <li>- <i>Unclear benefits</i></li> <li>- <i>Reluctance of social entrepreneurs</i></li> </ul>
Rigid eligibility requirements	<ul style="list-style-type: none"> <li>- <i>Difficult mechanism to obtain SE status and relevant facilities</i></li> <li>- <i>Incomplete legal framework</i></li> </ul>
Local public authorities do not promote the social entrepreneurship	<ul style="list-style-type: none"> <li>- <i>Insufficient knowledge of the SE's benefits on the one hand and local public authorities' benefits on the other hand</i></li> <li>- <i>Missing facility mechanism for legal implementation</i></li> <li>- <i>Authorities do not promote social entrepreneurship</i></li> </ul>
Unfavourable conditions for the development	<ul style="list-style-type: none"> <li>- <i>Limited facilities and benefits</i></li> <li>- <i>Obligation to reinvest profits Lack of a strong network</i></li> </ul>

*Table 7. Effects and effects of effects*

<b>Effects</b>	<b>Effects of effects</b>
Less developed infrastructure in rural communities	<ul style="list-style-type: none"> <li>- <i>poverty will increase</i></li> </ul>
Needed social services will not be provided/diversified	<ul style="list-style-type: none"> <li>- <i>demotivation of social enterprises and stakeholders to promote and develop new SE</i></li> </ul>

The main objective was defined to increase the number of Social Enterprises registered in Moldova (please see table 8-9 or annexes 1-4 for detailed information).

*Table 8. Strategic and specific objectives*

<b>Strategic objectives</b>	<b>Specific objectives</b>
To assure diversity of social enterprises by specific fields	<ul style="list-style-type: none"> <li>- to organize public workshops to identify social needs and community problems</li> <li>- specialized training for active and potential social entrepreneurs in different fields and industries</li> <li>- capacity building training</li> </ul>



<p>To stimulate Local Public Authorities, cooperate and contribute more to SE development</p>	<ul style="list-style-type: none"> <li>- to provide commercial space for SE. A Government decision should order an inventory of available spaces that can be used and identify a list of available assets of the community;</li> <li>- to contract services from social entrepreneurs as a priority</li> <li>- to ensure the transparency of public acquisitions and encourage social enterprises' participation in the public tenders</li> <li>- to recognize district top SE personalities/taxpayers of the year and assure visibility of their activity and impact on the community</li> </ul>
<p>To promote social enterprises as an engine of the economy</p>	<ul style="list-style-type: none"> <li>- To encourage local and regional partnerships</li> <li>- To motivate initiative groups, which can generate hybrid ideas</li> </ul>
<p>To create a consolidated network/platform for social enterprises</p>	<ul style="list-style-type: none"> <li>- To give Informational support to new and potential social enterprises</li> <li>- To offer business tools and guidance for new SE</li> <li>- To assure specialized consultancy: business consultant, legal advisor</li> <li>- To communicate and lobby using the best international practices</li> <li>- To create a dynamic portal to promote information and communication with public institutions, donors, partners and social entrepreneurs</li> <li>- To elaborate a strategic lobby plan and implement accordingly</li> </ul>

*Table 9. Benefits and Benefits of benefits*

<b>Benefits</b>	<b><i>Benefits of benefits</i></b>
<p>Facilitated access to innovative social services</p>	<ul style="list-style-type: none"> <li>- <i>infrastructure development in rural communities not only in urban ones</i></li> </ul>
<p>Access to the labour market for disadvantaged people</p>	<ul style="list-style-type: none"> <li>- <i>poverty reduction, contribution to well-being in vulnerable families</i></li> </ul>
<p>Community-level stakeholders will support and promote social enterprises</p>	<ul style="list-style-type: none"> <li>- <i>non-governmental institutions will actively participate in the founding of the social enterprise</i></li> <li>- <i>foreign investment will be attracted from donors</i></li> </ul>



Similarly, the second group has discussed the private financing of SE. The participants have pointed out the following ideas regarding the identified problem. “There are only a few Social Enterprises registered in Moldova” (please see Table 10-11 or Annexes 5-8 for detailed information).

*Table 10. Causes and causes of causes*

<b>Causes</b>	<b>Causes of causes</b>
Inaccurate perception of social entrepreneurship role in the community	<ul style="list-style-type: none"> <li>- <i>Lack of promotion of social entrepreneurship and its impact on civil society.</i></li> <li>- <i>Lack of awareness among students regarding social entrepreneurship</i></li> <li>- <i>Lack of educational opportunities in this particular field</i></li> <li>- <i>Lack of mechanism for measuring the impact</i></li> <li>- <i>Missing statistics that can be relied upon for a future decision in this area</i></li> </ul>
Ambiguous legal framework	<ul style="list-style-type: none"> <li>- <i>The legal forms regarding social entrepreneurship are not well recognized at the institutional level</i></li> <li>- <i>Disadvantaged people are not motivated to undertake this type of entrepreneurship</i></li> <li>- <i>Vague laws related to social entrepreneurship</i></li> <li>- <i>Lack of a legal methodology</i></li> <li>- <i>Lack of awareness about state benefits from SE development</i></li> <li>- <i>Incomprehensible law at the level of society</i></li> </ul>
Lack of private funding and limited financial support	<ul style="list-style-type: none"> <li>- <i>Specific eligibility criteria for accessing bank funding (LTD forms that prove project sustainability and offer acceptable guarantees)</i></li> <li>- <i>The legislation is not harmonized</i></li> <li>- <i>High bank interest rates because of the high level of risk</i></li> <li>- <i>Low level of training to justify project continuity</i></li> </ul>
Low purchasing power of Moldovan customers	<ul style="list-style-type: none"> <li>- <i>Lack of a state-guaranteed fund, that could motivate social entrepreneurs to access credits and protect financial institutions</i></li> <li>- <i>Poorly developed economy in Moldova</i></li> <li>- <i>Social entrepreneurship is an expensive sector of business because it involves ecological aspects, educational aspects, etc.</i></li> <li>- <i>Lack of customer education on SE products and services.</i></li> </ul>



<p>Obscure and discouraging fiscal framework</p>	<ul style="list-style-type: none"> <li>- <i>Unclear methodology for legal acts enforcement</i></li> <li>- <i>Lack of specific laws to regulate the activity of social entrepreneurship (for example IT and Agricultural field)</i></li> <li>- <i>Lack of guarantees for the state to cover certain monthly payments to the creditor (interest), tax exemptions</i></li> </ul>
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Table 11. Effects and effects of effects

<b>Effects</b>	<b>Effects of effects</b>
<p>The state and society perceive social entrepreneurship as volunteering</p>	<ul style="list-style-type: none"> <li>- <i>Lack of social responsibility,</i></li> <li>- <i>Lack of understanding of the difference between classic limited liability companies and social enterprises</i></li> </ul>
<p>Few prerequisites for social development in the country</p>	<ul style="list-style-type: none"> <li>- <i>Unmotivated social entrepreneurs</i></li> <li>- <i>Underdeveloped regions</i></li> <li>- <i>Limited social services in rural areas</i></li> <li>- <i>A high rate of unemployment due to a high number of jobless people from disadvantaged categories</i></li> <li>- <i>A higher part of the public budget will be directed to social expenses (state aids, compensations) instead of investment</i></li> </ul>



Table 12. Specific objectives and benefits

Specific objectives	Benefits
<ul style="list-style-type: none"> <li>➤ To create an Association of Social Entrepreneurship, to defend and lobby the interests of social entrepreneurs</li> <li>➤ To motivate through tax and legal incentives, not through fines;</li> <li>➤ To allow mobile selling points;</li> <li>➤ To have a regulatory framework to encourage SE development, but also not to allow circumventing the law;</li> <li>➤ To facilitate the use of state assets (rented spaces offered at a modest price);</li> <li>➤ To organize training programs for social entrepreneurs and awareness building public events for society;</li> <li>➤ To encourage international exchange in terms of training, experience, and partnerships;</li> <li>➤ To create a Social Affairs Incubator (with certain facilities for social entrepreneurs);</li> </ul> <p>To determine key performance indicators at the macro and micro level regarding SE, thus assuring continuity and creating statistics.</p>	<ul style="list-style-type: none"> <li>- <i>Solving the problems of the state / society;</i></li> <li>- <i>Additional jobs and a lower rate of unemployment;</i></li> <li>- <i>Diversification of funding sources;</i></li> <li>- <i>Developing existing businesses in a healthy way by providing social education to the younger generation through example;</i></li> <li>- <i>Internationalization and business model exchange;</i></li> <li>- <i>Functional SE ecosystem at national and international level;</i></li> <li>- <i>Customer acquisition cost will be lower considering system education;</i></li> <li>- <i>Community and society development;</i></li> <li>- <i>Knowledge and experience transfer between social entrepreneurs and society;</i></li> <li>- <i>Emotional satisfaction.</i></li> </ul>

### CONCLUSIONS

The general perception of social entrepreneurship in the Moldovan market is slightly erroneous among main actors. Based on in-depth interview results, we conclude that only social entrepreneurs have a clear understanding of the concept and legal definition. The representatives of the Public Services Agency/ State Tax Service, banks, and non-banking financial institutions have incomplete or slightly inaccurate opinions/beliefs about social entrepreneurship. Altogether, the situation creates barriers to awareness about general concepts and leads to stagnation of social entrepreneurship development.

Upon review of the focus group results, even if participants were working in two different teams, several common insights were found:

- Social entrepreneurship needs a representative voice – an association should be created to support and lobby social entrepreneurs' interests;
- Social entrepreneurs need a functional platform to connect and develop sustainable relationships with local and international partners;
- Specific measures shall be developed and constructive communication between SEs and government institution staff shall be required.



## RECOMMENDATIONS FOR LEGAL FRAMEWORK IMPROVEMENT

### Recommendations for Legal framework improvement



#### **Elaboration of a special law on social entrepreneurship and social enterprises.**

Currently, in the Republic of Moldova, the social entrepreneurship is regulated by certain chapters and legal provisions of various laws which are not adjusted in a perfect alignment. Although the social enterprises are not different legal entities, a special legal framework will bring completeness, certainty, clarity and visibility of social entrepreneurship, which will provide among others a clear definition of social entrepreneurship and social enterprise, a procedure with exhaustive steps for becoming a social enterprise or work integration social enterprise.

#### **Recommendations:**

1. To regulate the definition of social entrepreneurship which will cover the two main dimensions, namely:
  - the entrepreneurial dimension;
  - the social dimension
2. To regulate the principles of social entrepreneurship as follows:
  - priority shall be given to the individual and social objectives over the increase of profit;
  - convergence between the interests of the associated members and the general interest and / or the interests of a community;
  - democratic control of the members, exercised over the activities carried out;
  - voluntary and free nature of association in the forms of organization specific to the field of social entrepreneurship;
  - distinct legal personality, management autonomy and independence from public authorities;
  - allocation of the largest share of the profit to achieve social objectives.
3. To exclude the current limitation (i.e. article 36<sup>3</sup> paragraph 1 of the Law on entrepreneurship and enterprises 845/1992) regarding legal entities which may obtain the status of social enterprise/work integration social enterprise and to establish that the status of social enterprise/ work integration social enterprise could be obtained by any private legal entity which complies with the principles of social entrepreneurship and fulfils the legal conditions to obtain the above-named status.
4. To expressly regulate and provide clear steps which the legal entity should take and the documents which should be submitted, to obtain the status of social enterprise/ work integration social enterprise.
5. To regulate the option of online submission of documents regarding the awarding the status of social enterprise/work integration social enterprise, through a dedicated webpage or a web platform.





6. To regulate the creation of a single, national Register of the legal entities that have obtained the status of social enterprise/work integration social enterprise.

The existence of a social enterprise law may contribute to supporting the growth of this field as it will clarify the goals and constraints which the social enterprises are expected to comply with.



**Transfer of competence for awarding the status of social enterprises to local public authorities.**

Currently, the competent authority which awards the status of social enterprise or work integration social enterprise is the National Commission for Social Entrepreneurship. Therefore, this leads to delays in reviewing applications submitted by the social entrepreneurs, which could impact their social businesses. Also, provided that the legal framework in social entrepreneurship is improved, this may lead to a high number of applications and a low capacity of the commission to process them.

**Recommendations:**

1. To transfer the competence of analysis, evaluation of the documents and awarding the status of social enterprise/work integration social enterprise to local (district) level, such as Territorial Structures of Employment Agency, considering the fact that:

- (i) these are closer to the potential social entrepreneurs from each of the districts of the country;
- (ii) these will have also the capacity to monitor if the work integration social enterprises comply with the mandatory condition of 30% employees from the category of the disadvantaged population; and
- (iii) this will lead indirectly to promotion of social entrepreneurship by the local authorities, as these will know from the beginning the established local social enterprises, as well as the fields in which these operate.

2. To regulate the support and consultations, including online, by the competent authority on awarding the status of social enterprise /work integration social enterprise, regarding the documents to be submitted by the applicant and regarding the steps to be taken.



**Elaboration and implementation of a special fiscal treatment of the social enterprises and work integration social enterprises.**

The vague and discouraging fiscal framework was identified as being a cause due to which in Moldova has a small number of registered social enterprises. As mentioned during the on-line in-depth interviews, one of the barriers to access fiscal facilities is that such facilities are designed for the special, existing form of legal entities. For example, non-profit organizations have rental tax facilities, certain facilities regarding the local taxes, and the mechanism for obtaining 2% of income tax directed by individuals to these organizations. Therefore, an incentive in the field of tax treatment, including, without limitation, income tax, medical and social insurance, could be an important reason for the potential applicants to apply for the status of social enterprise/ work integration social enterprise. Such incentive could be implemented for compensating the loss of productivity due to the fact that work integration social enterprises hire less productive individuals, from the disadvantaged category, which are in a re-integration process during their employment. Therefore, it could be a kind of support from the state for the social utility mission and responsibility which these enterprises undertake.



### Recommendations:

1. To exempt the legal entities that have obtained the status of social enterprise/work integration social enterprise, from the tax on reinvested profit in achieving the social objectives.
2. To establish a special reduced VAT regime to products and services which are provided by the legal entities that have obtained the status of social enterprise/work integration social enterprise.
3. To establish a special reduced tax regime for the income of the employees of the legal entities that have obtained the status of social enterprise/work integration social enterprise.

Finally, a special tax treatment will amortize fiscal expenses and ensure a long-term sustainability of social enterprises, especially the start-up established by young social entrepreneurs.



### Improving the legal framework regarding the public procurement.

Public procurement may constitute an important source of revenue for the social enterprises which try to find out new markets. Therefore, through public procurement, the state may support social enterprises by awarding them service provision opportunities. However, currently under the law which regulates public procurement, only some services are reserved exclusively for certain economic operators, including social enterprises.

As an example, according to article 59(6) of the Law on public procurement 131/2015, "The contracting authority has the right to establish that participation in procedures for the award of public contracts having as its object exclusively health, social and cultural services, to which CPV codes 75121000-0, 75122000-7, 75123000- 4, 79622000-0, 79624000-4, 79625000-1, 80110000-8, 80300000-7, 80420000-4, 80430000-7, 80511000-9, 80520000-5, 80590000-6, from 85000000-9 to 85323000- 9, 92500000-6, 92600000-7, 98133000-4, 98133110-8, to be reserved for economic operators, such as non-profit legal entities, social enterprises, and protected units, accredited as social service providers, public providers of social services."

Therefore, the state should amend the existing legal framework, and exclude such limitations. Moreover, to support social entrepreneurship, the state should grant a certain share of all public procurements to social enterprises. Also, for granting access to the market for social enterprises, the state should ensure that contracting authorities are not obliged to consider only the price/cost value, but they shall also be allowed to consider the social benefits offered by a social enterprise as a service provider.

### Recommendations:

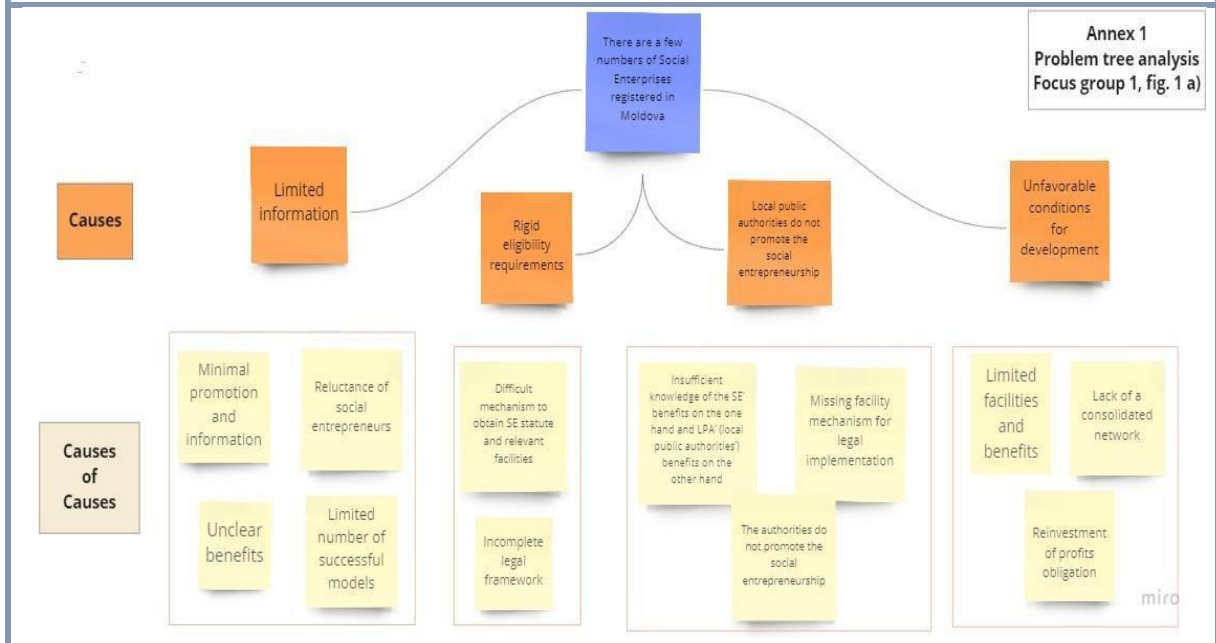
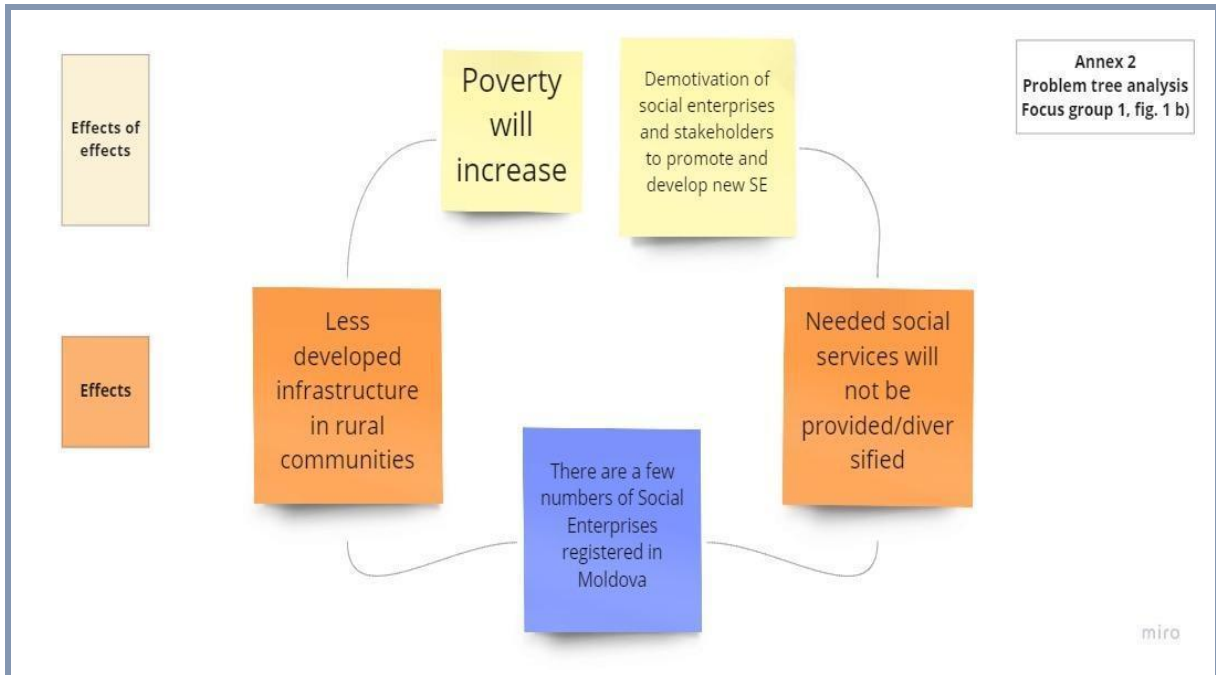
1. To amend the current legal framework by excluding the limitations stated in articles 6(2) and 59(6) of the Law on public procurement 131/2015, with the establishment of the express obligation to reserve a share of at least 15% of the total public procurement contracts for the legal entities that have obtained the status of social enterprise/work integration social enterprise.
2. To amend article 59(5) of the Law on public procurement 131/2015, and to establish that the contracting authorities must take into account not only the quality-cost or quality-price criteria, but shall mandatorily take into account also the social benefits, the mission, and

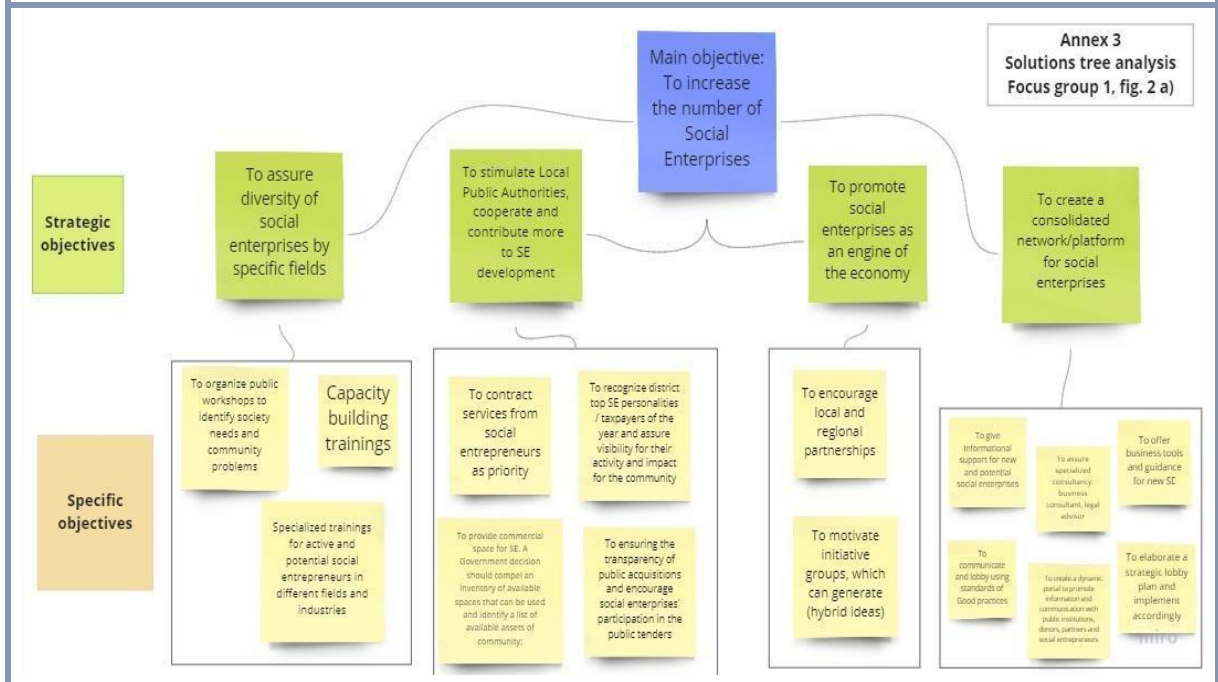
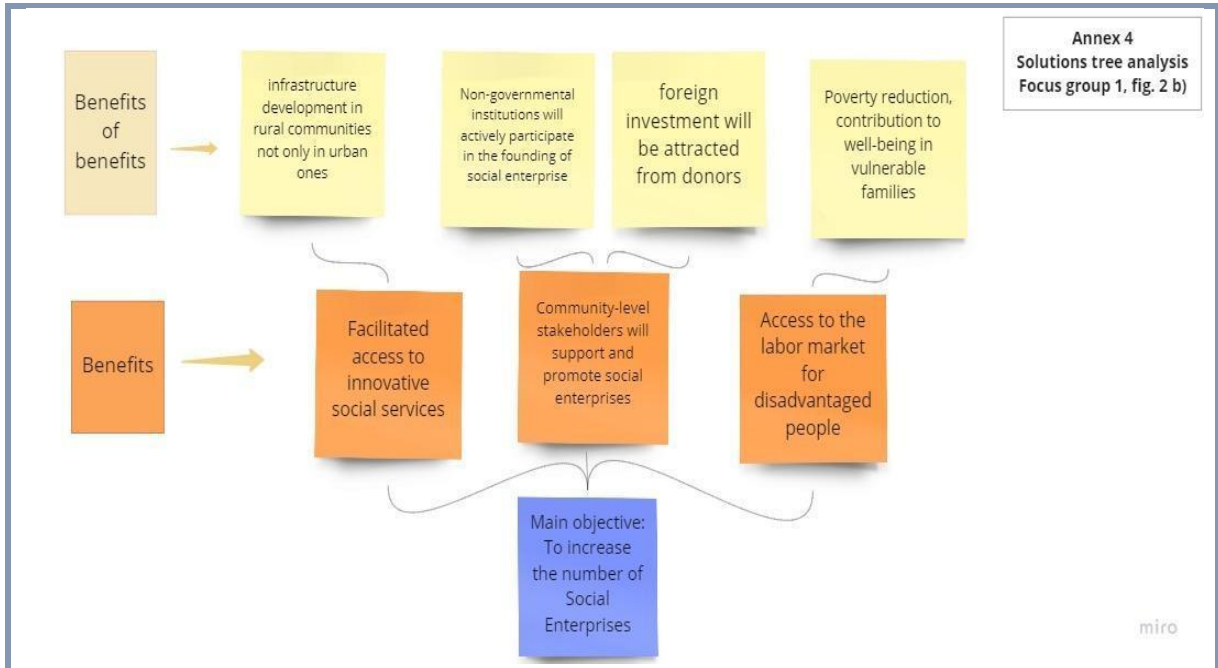


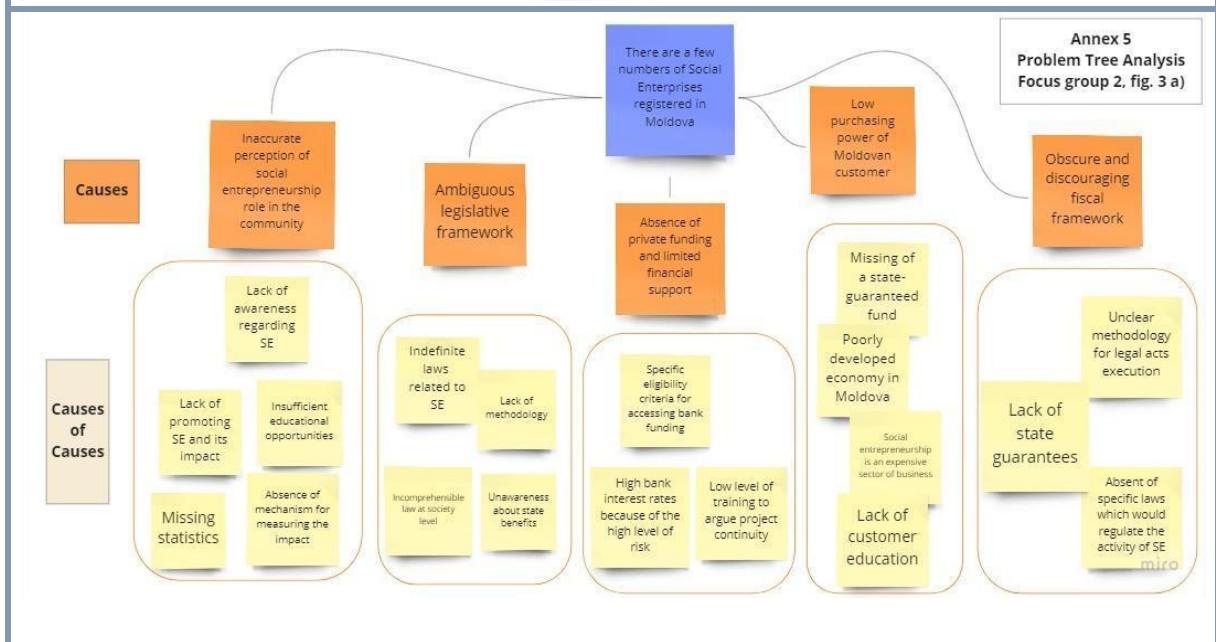
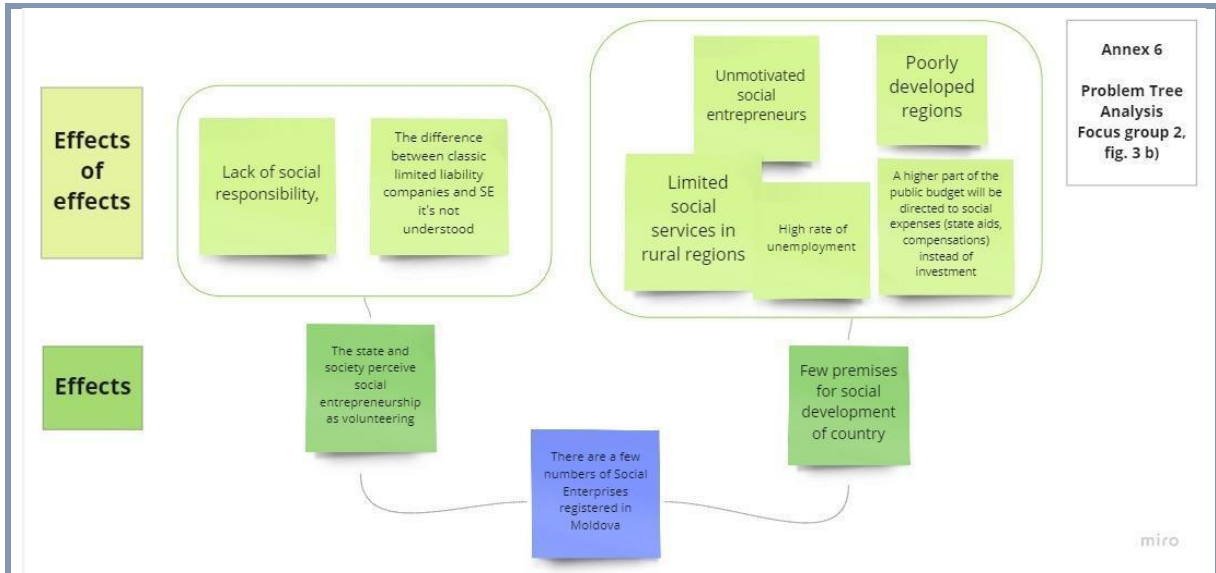
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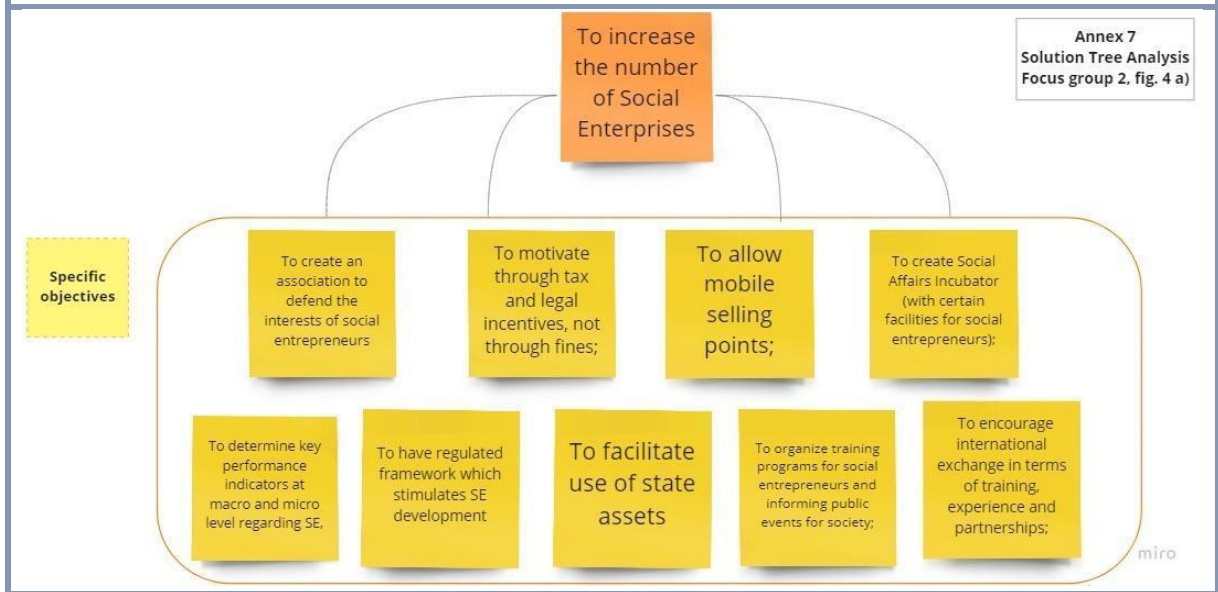
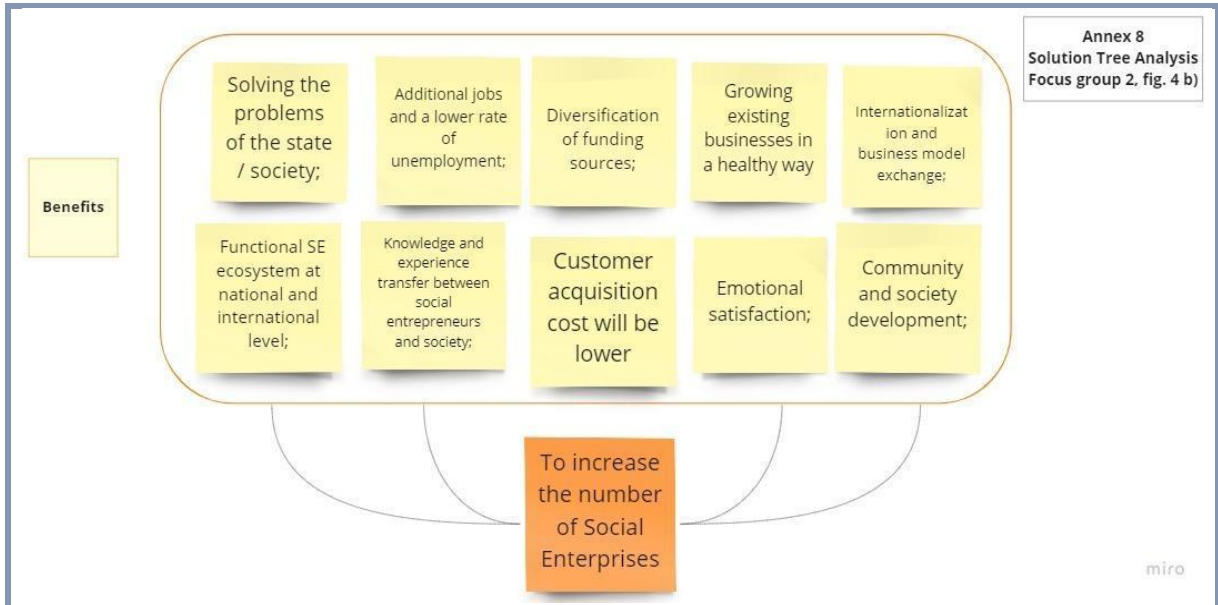
purposes of the legal entities that have obtained the status of social enterprise/work integration social enterprise, that provide the product or the service.

3. To promote and encourage the public institutions to apply the public procurement procedure provided by Article 46(1) g) and Article 59 of the Law on public procurement 131/2015.











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## CHAPTER III

# Report with conclusions and recommendations on the elaboration of amendments to the legal framework on social entrepreneurship in Moldova

(public policies and strategies on social entrepreneurship in Moldova; activities of the National Commission on Social Entrepreneurship; access to active employment measures for social enterprises and work integration social enterprises)

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## EXECUTIVE SUMMARY

A regulatory framework review on social entrepreneurship was carried out aiming at covering specific interventions areas such as: public policies and strategies related to social entrepreneurship in Moldova; activity of the National Commission on Social Entrepreneurship; active employment measures targeting vulnerable groups and available to social enterprises and work integration social enterprises; public procurement procedures accessible to social enterprises and work integration social enterprises.

The methodology of this analysis was based first on mapping the regulatory framework, which was presented in the Inception Report. The goal was first to focus on the institutional set-up and its effectiveness, and if necessary components are in place - to boost social entrepreneurship in Moldova. The first conclusion is that the regulatory framework is in place and it is aligned with the best international practice; however, there are implementation issues that need to be addressed by competent public authorities.

Moldova has regulated social entrepreneurship by amending the general regulatory framework on entrepreneurship, namely Law no. 845/1992 on entrepreneurship and enterprises. Along with these amendments, Government Decision no. 1165/2018 on approval of the Regulation on organization and functioning of the National Commission on Social Entrepreneurship and a list of activities which are deemed to be social entrepreneurship activities was adopted. The same Government Decision has approved the Regulation on organization of a competitive selection procedure for civil society members in National Commission on Social Entrepreneurship.

In respect to active employment measures, the new Law no. 105/2018 on employment promotion and unemployment benefits comprises a large set of measures and subsidies for which social enterprises and work integration social enterprises could apply. Unfortunately, these measures are not so widely advertised in order to be more accessible for beneficiaries and social enterprises and work integration social enterprises.

An immediate output of the regulatory analysis are the regulatory gaps which are related mostly to the activity of the National Commission on Social Entrepreneurship, that have to be solved by amending the regulation of its activity, in particular, procedure for appointing the Chairperson, the duration of the members' mandate, the monitoring and evaluation criteria, etc. Amendments have to be also made in public procurement procedures on social and specific services; in particular, standard documentation needs to be drafted on conducting these procedures and technical issues of the electronic platform [mtender.gov.md](http://mtender.gov.md) need to be solved in order to allow for registry of public procurement procedures on social and specific services. All the findings mentioned in this analysis have been also confirmed within interviews with members of the National Commission on Social Entrepreneurship, public procurement specialists and representatives of Ministry of Health, Labour and Social Protection, National Employment Agency, etc.



Recommendations are presented in the analysis in each chapter, and there are also detailed recommendations in the Appendix A of this report based on following structure: recommendation name (each recommendation has also a number: R1, R2, etc.); which institution has primary responsibility on implementation, priority of the recommendation, its impact and level of effort; problem and background; proposed solution; cost and benefit assessment; key performance indicators; key and risk mitigation.

## I. GENERAL CONTEXT AND DEFINITIONS

Social entrepreneurship in Moldova is not regulated by a special law; instead the general regulatory framework under the Law no. 845/1992 on entrepreneurship and enterprises is applied, which has been amended accordingly by introducing several provisions and a separate chapter dedicated to social entrepreneurship and social enterprise, namely in Chapter VI<sup>1</sup>.

Law no. 845/1992 in art. 1<sup>1</sup> defines social entrepreneurship as an entrepreneurial activity with the main purpose to solve a social problem in the interest of the community.

This activity may be carried out by social enterprises and work integration social enterprises, and it aims at **improving livelihoods and providing opportunities to people from disadvantaged groups of population** by strengthening economic and social cohesion, including at local level, through employment, developing social services in the interest of community, by enhancing social inclusion.

A disadvantaged person and family is a socially vulnerable person and family in situations that impede their normal activity from an economic, educational, social, point of view.

Since this category of persons is a very general one, a more detailed clarification could be found in art. 7 of the Law no. 547/2003 on social assistance, which provides a list of beneficiaries of social assistance, namely, individuals and families eligible for social assistance benefits who, due to factors of economic, physical, psychological or social nature have no opportunity, based on their own abilities and skills, to prevent, and overcome situations that place them in difficulty, namely:

- a) Children and young people whose health, development and physical, mental or moral integrity are impaired in the environment in which they live;
- b) Families that do not properly fulfil their obligations regarding care, maintenance and education of their children;
- c) Low-income families;
- d) Families affected by domestic violence;
- e) People without a family, who cannot manage on their own, who need care and supervision or are unable to cope with their socio-medical needs;
- f) Families with three or more children;
- g) The elderly;
- h) People with disabilities;
- i) Other persons and families in difficulty.



We find that people in this category have difficulties linked to physical, mental or intellectual independence and they need social assistance in order to perform their current functions of vital importance. There are also other categories of persons in difficulty that belong to various risk groups, but they do not fall under the category addressed under social entrepreneurship. In particular, Law no. 105/2018 also provides a list of persons from various risk categories, such as those referred to in art. 23 para. (3), namely:

- a) Young people aged 16 to 24: from disadvantaged families, orphans, children with no parental care, under guardianship or trusteeship;
- b) Persons who do not have a profession / occupation;
- c) People with disabilities;
- d) Long-term unemployed;
- e) Persons aged 50 and those over 50;
- f) Persons released from detention;
- g) Victims of human trafficking, after psychological and social rehabilitation;
- h) People with drug addiction or use of psychotropic substances; after social and psychological rehabilitation;
- i) Victims of domestic violence;
- j) Other categories subject to social exclusion risks as stated by law or by the Government.

It could be noted that these two lists of disadvantaged categories are viewed from different perspectives, and as understood from the definition of a disadvantaged category under the Law no. 547/2003, the lists are more narrow in meaning, while the purpose of social entrepreneurship would cover a broader scope.

The Moldovan legislator used the same approach as the Romanian legislator by regulating disadvantaged groups in the law on social economy without expressly listing such categories. Under Romanian legislation a disadvantaged group is much broader, and it comes with a more general understanding such as: *a vulnerable group means persons or families who are at risk of losing their ability to meet their daily living needs due to illness, disability, poverty, drug or alcohol addiction or other situations that lead to economic and social vulnerability.*

#### RECOMMENDATION (R1)

**To amend the definition of a disadvantaged category**, either to extend it or to establish some criteria under which a certain category could be considered as being subject to the risk of social exclusion. This solution shall comprise all risk groups covered by different laws.



## II. PUBLIC POLICIES AND STRATEGIC VISION ON SOCIAL ENTREPRENEURSHIP IN MOLDOVA

Regulation of social entrepreneurship in the Republic of Moldova by amending Law no. 845/1992 on entrepreneurship and enterprises<sup>10</sup> was very welcome. However, given that social economy, as well as social entrepreneurship are new concepts that are subject to distinctive principles of classical entrepreneurship, it would have been more appropriate to regulate it by a special law.

A special law provides more clarity for those least initiated, allows for clear regulation on types of activities, subjects, management of such businesses, opportunities or facilities that can be offered upon obtaining the status of social enterprise or work integration social enterprise, clear differentiation from traditional entrepreneurship and/or non-profit organizations, etc.

The existence of a special law would emphasize the priority of this area, as well as provide a broader umbrella on social entrepreneurship within the regulatory framework. And, if secondary legislation does not provide solutions to certain problems, the special law framework could provide clearer directions to address the problem. There are different regulation models depending on the country. Some of the countries that have opted for a special law are Romania, France, Spain, Portugal and Greece.

The decision to draft a special law is more of a technical solution that could ensure a greater visibility of this area and allow for proper budgetary planning on administrative and tax facilities.

The lack of a special law in the field of social entrepreneurship, as well as lack of a policy document diminishes the importance of the subject and does not show a strong political commitment of the authorities to promote social entrepreneurship in Moldova.

### RECOMMENDATION (R2)

To **regulate social entrepreneurship by a special law**, in order to emphasize the specifics of social entrepreneurship and to provide greater space for developing medium, and long-term strategic policies in the area.

Currently, no public policy on social entrepreneurship has been approved in the Republic of Moldova. Such intentions exist, and this fact can be confirmed from the content of the 2019 Report of the National Commission on Social Entrepreneurship: *In 2020 the National Program for Development of Social Entrepreneurship in the Republic of Moldova is expected to be developed with the support of the Project “Advising the Government of the Republic of Moldova on economic policies”, implemented by GIZ Moldova”, which will also include an action plan for social entrepreneurship for years 2021-2025, as well development of a Program to support social entrepreneurship to be implemented by ODIMM*”. While this report was being drafted,

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<sup>10</sup> [https://www.legis.md/cautare/getResults?doc\\_id=120906&lang=ro](https://www.legis.md/cautare/getResults?doc_id=120906&lang=ro)



the Ministry of Economy and Infrastructure has initiated public discussions on the Draft National Development Program on Social Entrepreneurship for years 2021-2025.<sup>11</sup>

The document aims to:

1. Promote and develop a culture of social entrepreneurship in the population of the Republic of Moldova;
2. Create a regulatory framework favourable for social entrepreneurship and capitalize on the potential of this sector for economic and social development of the Republic of Moldova;
3. Facilitate the access to the market and to financial instruments specific to the social entrepreneurship sector in the Republic of Moldova;
4. Improve professional skills and competences in the field of social entrepreneurship.

Definitely this policy document is beneficial, since in order to promote social entrepreneurship in the Republic of Moldova, a set of clear objectives and measures are needed aimed at involving all relevant authorities based on their specific competences. At the same time, a policy document gives a window of opportunity to reasonably plan budgetary resources, and to include them in the medium-term budgetary frameworks, and in annual budgets.

As mentioned above, this is a huge step towards developing social entrepreneurship by approving a medium-term public policy. However, this document comprises intervention actions that have already been included in the regulatory framework (e.g., reserved public procurement of social services), or actions the social inclusion increase of which is not clear (e.g., mandatory quota for enterprises with more than 100 employees to hire people with disabilities. The Law no. 60/2012 on social inclusion of people with disabilities<sup>12</sup> already provides in art. 34 par. (4) that employers, regardless of their legal organization, which have 20 or more employees according to the staffing scheme, shall create or reserve jobs and hire people with disabilities comprising at least 5 percent of the total number of employees.

It is highly recommended to **ensure a broad discussion of the policy document including representatives of civil society and social enterprises**. The document has to include more specific actions towards achieving its main goals, and to detail major bottlenecks which require envisaged actions as solutions.

### III. ORGANIZATION AND ACTIVITY OF THE NATIONAL COMMISSION ON SOCIAL ENTREPRENEURSHIP

In order to implement provisions of the Law no. 845/1992 on entrepreneurship and enterprises referring to social entrepreneurship, the Government has approved the Regulation on organization and functioning of the National Commission on Social Entrepreneurship

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<sup>11</sup> <https://cancelaria.gov.md/ro/content/pentru-aprobarea-programului-national-de-dezvoltare-antreprenoriatului-social-2021-2025>

<sup>12</sup> [https://www.legis.md/cautare/getResults?doc\\_id=110494&lang=ro](https://www.legis.md/cautare/getResults?doc_id=110494&lang=ro)



(hereinafter referred to as *Commission*) and the list of types of social entrepreneurship activities, namely Government Decision no. 1165/2018<sup>13</sup>.

The Commission is a collegial body without a legal status, which comprises 11 members (Chairperson, Deputy Chairperson, and members of the Commission):

1. 2 representatives from the Ministry of Economy and Infrastructure;
2. 1 representative from the Ministry of Health, Labour and Social Protection;
3. 1 representative from the Ministry of Agriculture, Regional Development and Environment;
4. 1 representative from the Ministry of Finance;
5. 1 representative from Ministry of Justice

All appointed ministry representatives shall have the level of state secretaries.

6. 1 representative from the Congress of Local Authorities of Moldova;
7. 4 representatives from non-profit organizations carrying out social entrepreneurship activities, and representatives of social enterprises, including work integration social enterprises, selected in the established manner according to the law.

The Commission has a 3-year mandate from the issuance date of the Order of the Minister of Economy and Infrastructure.

The position of the Chairperson is held by the Secretary General of the Ministry of Economy and Infrastructure, while the position of Deputy Chairperson is exercised by a representative from among civil society members, as elected by a majority of members of the Commission, during the first meeting.

From the above, the fact could be underlined that the position of Chairperson is *ex officio*; it is not an elected position, and it is linked to the position of a Secretary General of the Ministry of Economy and Infrastructure. It is worth mentioning that the term of members' mandate is of 3 years. From the wording of Government Decision no. 1165/2018 it appears that the position of the Chairperson survives the mandate of the Commission, and it could be perpetuated for an uncertain period of time. Additionally, the position of State Secretary is not a position of political mandate, it has the status of a civil servant of the highest rank. Employment contracts with these civil servants are concluded for an indefinite period of time.

Institutional memory is an important issue, but, at the same time, such a Commission shall not be led by the same person as Chairperson indefinitely. In addition, any change of management at a certain interval (based on the mandate) can bring new visions in the way the Commission shall carry out its activity. Likewise, when the composition of the 11 members of the Commission changes and, at the same time, the same person stays as Chair, conflict situations could arise between the Chairperson and new members of the Commission, which could impede the activity of the Commission.

It is worth mentioning that Law no. 845/1992 in its art. 36<sup>4</sup> does not provide that the chairperson has to be the Secretary General of the Ministry of Economy and Infrastructure, nor does it specify the way the chair has to be elected or appointed. The reason for the chairperson being

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<sup>13</sup> [https://www.legis.md/cautare/getResults?doc\\_id=109970&lang=ro](https://www.legis.md/cautare/getResults?doc_id=109970&lang=ro)



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an ex officio position and the linked of such position to the General Secretary of the Ministry is not clear. It also questionable why it was so regulated in the Government Decision no. 1165/2018.

Moreover, a comparison could be made with the Certification Commission on public utility<sup>14</sup> for non-commercial organizations. This is quite similar in terms of procedures. There are 9 members with a 2-year mandate. The Chairperson is elected from among the members of commission, also for a 2-year mandate. The Commission members cannot hold more than 2 consecutive mandates.

### RECOMMENDATION (R3)

#### Option A

**To amend the procedure of appointing the Commission Chairperson** so that he/she is elected from among the Commission members for the same 3-year mandate.

#### Option B

To amend the procedure of appointing the Commission Chairperson so that such appointment is not linked to position of General Secretary of the Ministry of Economy and Infrastructure. Another representative of the Ministry could be nominated (Head of Division or State Secretary), but also for the same 3-year mandate as that of other members of Commission.

Amendments shall be operated in Government Decision no. 1165/2018 on approval of the Regulation on organization and functioning of the National Commission on Social Entrepreneurship and the list of types of activities that constitute social entrepreneurship activities, in particular paragraph 6.

The same Government Decision no. 1165/2018 states that members of the Commission have a 3-year mandate. It does not regulate the number of consecutive mandates one member could have. This means that some of the members could be appointed/elected for an indefinite number of mandates. This approach is not used in any public commissions or committees, and it gives a wrong message incompatible with genuine democracy. Thus, most state commissions are regulated so that their members could serve only for two consecutive terms.

### RECOMMENDATION (R4)

**To regulate the number of mandates that members of the Commission could have:** the members of Commission could hold a maximum 2 consecutive 3-year mandates.

Amendments shall be made in the Government Decision no. 1165/2018 on the approval of Regulation on organization and functioning of the National Commission on Social

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<sup>14</sup> [https://www.legis.md/cautare/getResults?doc\\_id=122391&lang=ro](https://www.legis.md/cautare/getResults?doc_id=122391&lang=ro)



Entrepreneurship and the list of types of activities that are social entrepreneurship activities, Section II.

In order to evaluate compliance with social enterprise status, the Commission has to set up working groups consisting of its members, representatives of relevant public authorities to conduct such evaluation. Unfortunately, Government Decision no. 1165/2018 does not regulate how such evaluation shall be performed; neither does it provide any reference evaluation criteria based on which an evaluation shall be done. It only states in paragraph no. 45 the types of information that could be requested by working group members in order to carry out an evaluation.

As the Secretariat of the Commission is understaffed, and because of the high level of representation in the Commission (State Secretary level), such members being overwhelmed with daily tasks, the Ministry of Economy and Infrastructure has found a solution. It has created a permanent working group, which comprises about 17 members, representatives of many public authorities and the civil society. This group assists the Commission to carry out primary evaluation of applicants for status of social enterprise or work integration social enterprise. And, the same working group assists the Commission in further evaluations and monitoring. It is not quite appropriate for the same working group to be involved in two different evaluation processes; it diminishes the impartiality of the evaluation process as such. The aim of primary evaluation is to grant or not grant the status of social enterprise or work integration social enterprise to a certain applicant; while the aim of the second evaluation is more of a monitoring and evaluation nature, to assess whether the entity continues to comply with all legal requirements for social enterprises / work integration social enterprises. It is important to mention that the second evaluation is undertaken only upon request by other public authorities, upon complaints, petitions.

### RECOMMENDATION (R5)

**To develop an evaluation methodology** for evaluating compliance of social enterprises / work integration social enterprises, to include at least the following:

- a. Establishing result indicators to allow the Commission to measure whether proposed results of work integration social enterprises have been reached. The purpose of these indicators is to measure the efficiency of the support stage in the reintegration process of people from vulnerable groups. Relevant for this category of indicators is the integration rate.
- b. Output indicators. This indicator would be necessary to measure immediate direct effects, benefits and advantages to vulnerable groups involved in the activity of work integration social enterprises. The purpose of this indicator is to measure the evolution of the average number of employees from among vulnerable groups integrated in social enterprises and work integration social enterprises. Relevant for this category of indicators are: percentage change in the total number of employees in social enterprises / work integration social enterprises in the reporting year as compared to previous year; percentage change in total number of employees from vulnerable groups in social enterprises / work integration social enterprise.





- c. Impact indicators. One of the principles of social economy is allocation of the largest part of the profit towards achievement of general interests of the community; this means reinvesting 90% of profit in enterprise's social purposes. Impact indicators would provide information on all long-term benefits. Relevant for this category of indicators is social profitability. The social profitability indicator aims to measure an enterprise's ability to make a profit so that 90% of such profit supports the costs of economic and social activity within one year. The indicator measures the social impact by reinvesting 90% of total profit obtained in the reporting year.

Going back to evaluation working groups, Government Decision no. 1165/2018 does not mention how decisions are to be taken, especially when no consensus among members exists. An analysis of legal provisions could lead to the conclusion that the working groups do not take/issue decisions, they only draft recommendations to the Commission. However, even recommendations have to be approved according to a certain procedure among groups' members. It is not clear what happens when certain members have different opinions on recommendations, what procedure should be used to present their opinion to the members of the Commission in such cases.

#### RECOMMENDATION (R6)

**To amend** Government Decision no. 1165/2018, **by regulating the decision-making procedure of the evaluation working group**. Decisions could be taken by the majority of appointed members. Or, it could be at least stated that certain working groups members could provide / attach a separate opinion to the Commission.

Paragraph no. 44 of Government Decision no. 1165/2018 states that grounds for undertaking an evaluation may be notifications and requests of enforcement and tax authorities, petitions of natural and legal persons on violations committed by social enterprises or work integration social enterprises. It is worth mentioning, that such grounds are rational, but not sufficient. There may be situations in which, based on information collected by the Commission, reasonable doubts exist that a certain enterprise is no longer compliant with the social enterprises / work integration social enterprise status. Unfortunately, the abovementioned government decision does not grant the Commission the right to initiate an evaluation based on own conclusions. Thus, theoretically, the evaluation could be performed only based on a third party compliant, request or petition.

#### RECOMMENDATION (R7)

**To amend** Government Decision no. 1165/2018, in particular, paragraph no. 44 **by introducing an additional legal ground for performing compliance evaluation - own conclusion** of the Commission.

Paragraph no. 47 of Government Decision no. 1165/2018 provides that in case violations of requirements stated in art. 36<sup>1</sup> and 36<sup>3</sup> of the Law no. 845/1992 on entrepreneurship and enterprises are found, the Commission has the right to warn social enterprises or social work



integration social enterprises on detected violations and to demand their elimination within 60 days.

However, para. 47 does not elaborate on the formal way in which the social enterprise or the work integration social enterprise shall be warned, whether a notification/recommendation in this respect shall be issued or a warning decision shall be taken. In conjunction with the provisions of paragraph 23 of the same government decision, it provides that in exercising its powers, the Commission adopts decisions and recommendations on issues within its competence. Thus, it would be appropriate to expressly regulate the form of legal acts to be issued by the Commission in the case of warning in the context of paragraph 47.

#### RECOMMENDATION (R8)

To amend Government Decision no. 1165/2018, in particular paragraph 47 and / or paragraph 23 by clarifying the legal form of issued document in case of warning by the Commission. The type of document issued (decision, notification, warning, prescription, etc.) is important in the context of the legal effects and the appeal procedures it may generate.

Apparently, the members of the Commission understand quite narrowly its competences, reducing them to evaluation of applications submitted in order to obtain the status of social enterprise or work integration social enterprise. Thus, if the number of applications is small, the need to hold sessions is not justified. However, in addition to review of applications and taking decisions to award or reject applications, the Commission also has other competences according to the law, in particular those stated in paragraph no. 3 of Government Decision no. 1165/2018, such as: development of studies and reports in the field of social entrepreneurship; participation in development of public policies and regulatory documents in social entrepreneurship; promoting the social entrepreneurship sector and formulating recommendations on improving the regulatory framework, etc.

According to paragraph no. 16 of Government Decision no. 1165/2018, the Commission shall meet whenever request or complains are submitted in its address, but not less than once per quarter, in ordinary meetings and, as the case may be, when convened by the Chairperson or a majority of elected Commission members, in extraordinary meetings. However, since 2019, when the Commission has started its activity, only 4 meetings have been held, from the 8 mandatory regular meetings. In addition, only 3 Minutes on meetings were previously available on Ministry of Economy and Infrastructure website. Upon launching of a new website of the Ministry even this information has disappeared. The former website also did not disclose full information on Commission's agenda. It is obvious that the Secretariat has difficulties due to its capacities that affect the transparency of the entire activity of the Commission.

#### RECOMMENDATION (R9)

**To develop an annual activity plan of the Commission.** In order to ensure a continuous and uninterrupted activity of the Commission, it would be necessary to draw up an annual activity plan and a timeframe for estimated dates of the regular meetings. An activity plan



could involve: discussions with experts; debates on draft policies affecting the sector; discussions with potential donors / development partners in setting cooperation priorities.

#### RECOMMENDATION (R10)

**To strengthen the capacity of the Secretariat.** If internal resources allow, one solution would be to increase the number of staff of the Commission's Secretariat. Another solution would be to require support from development partners along the lines used in respect to the Secretariat of the Economic Council under the Prime Minister of the Republic of Moldova.

## IV. EMPLOYMENT SERVICES, MEASURES AND SOCIAL ENTREPRENEURSHIP

Adoption of the Law no. 105/2018 on employment promotion and unemployment benefits<sup>15</sup> was aimed at making labour market more effective and inclusive. It benefits jobseekers, the unemployed, and employers alike. The law promotes active labour market policies which are proven to help increase employability through training, create job opportunities via wage subsidies and incentivise start-ups. Special target groups mentioned in the law include unskilled youth, people over 50, people with disabilities, people released from detention, etc.

In accordance with the above-mentioned law, National Employment Agency (hereinafter *NEA*) currently provides the following services which are relevant in the context of social entrepreneurship:

### A. Labour market information

This service implies registration of applications and job offers with NEA; employment services and active measures; conditions to access services and employment measures; information on job vacancies, and conditions for filling them; information on job search methods; information on qualifications and skills of jobseekers registered with territorial NEA units. In this sense, NEA plays the role of a platform where common interests of an employer and a job seeker could meet. Thus, the institution facilitates exchange of information and it analyses the compatibility of job supply and demand. This service is especially valuable in rural areas of the country, where access to other sources of information on job offers is limited. In urban areas there is a large access to information and online platforms where job advertisements are placed, such ads being grouped into several categories, which makes NEA labour market information services less in demand.

This service is available to all interested parties whether they are part of a certain risk category or not, and it is provided free of charge.

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<sup>15</sup> [https://www.legis.md/cautare/getResults?doc\\_id=105474&lang=ro](https://www.legis.md/cautare/getResults?doc_id=105474&lang=ro)



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It is worth mentioning that NEA has also an online platform, [www.angajat.md](http://www.angajat.md). Job opportunities/vacancies could be posted on the platform. It also has search engines based on various criteria such as: region, skills, level of education, salary offers. Unfortunately, this source is not so well advertised, and thus, it is not really accessed by potential beneficiaries. One of its disadvantages for a common user is the search engine, which is not very user friendly. It would be more appropriate to change the search criteria, such as by profession or by field.

The information service is mostly performed face to face (physical contact), so that online information resource is not used to reach a larger group of beneficiaries. In the current pandemic conditions, the development of the online information resource would make this service more efficient and accessible.

### RECOMMENDATION (R11)

To develop the electronic resource [www.angajat.md](http://www.angajat.md), and to establish additional criteria for the search engine. To list the latest job offers on the first page.

#### B. Career guidance

Career guidance includes information on professions and the specifics of the job; counselling on development of personal marketing tools and consultancy on the decision that the person can make regarding his/her career. The information on professions and the specifics of the labour market aims to support the person in order to correlate the professional interests with the demand on the labour market.

This service is provided free of charge to all categories of jobseekers. It is a service offered upon request.

It is a service provided exclusively to jobseekers / the unemployed.

#### C. Work intermediation

Work intermediation consists in mediation, by territorial NEA units, between potential employees and employers in order to meet the demands of both parties and to establish labour relations. This is done by providing information on job vacancies and conditions for filling them by publishing, posting, organizing job fairs; pre-selection of candidates in accordance with their training, skills, experience and interests.

Work intermediation could also take place electronically by automatically matching job applications and offers through information technologies.

This service can also be requested by social enterprises or work integration social enterprises in general order. However, like other small and medium-sized enterprises, they face the same problem of identifying people who meet their particular expectations. NEA and its territorial units are the only institutions that have the largest database on job seekers / the unemployed,



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as well as employers. Probably the biggest problem in providing these services is the lack of awareness that such services exist and are delivered for free.

Unfortunately, while available electronic instruments such as [www.angajat.md](http://www.angajat.md) or [www.e-angajare.md](http://www.e-angajare.md) seem to be good resources, which were launched about 5 years ago (in 2015), they which were not developed sufficiently so as to increase their value. However, both deserve to be improved so that navigation on these electronic resources could be a user-friendly experience.

### RECOMMENDATION (R12)

To develop the electronic service [www.e-angajare.md](http://www.e-angajare.md) which is not used to its full capacity. One of the problems is lack of adequate media coverage of this resource. NEA needs to allocate resources to advertise this instrument better.

#### D. Pre-dismissal services

Pre-dismissal services are provided to a certain category of persons, namely those who have been notified in connection with the liquidation of an enterprise, reduction of staff and they consist largely in the following: offering information on legal provisions relating to unemployment benefits, on available active employment services and measures; information on available registered vacancies; job search training.

However, these services can also be offered to other people who are at risk of unemployment upon request.

#### E. Vocational rehabilitation of people with disabilities

Vocational rehabilitation services are provided to people with disabilities in order to restore, recover or compensate their work capacity. Vocational rehabilitation is provided in specialized vocational rehabilitation institutions and centres in accordance with recommendations contained in the Individual Rehabilitation and Social Inclusion Program for Persons with Disabilities, developed by the National Council for Determining Disability and Work Capacity. These services are contracted from specialized service providers.

An opportunity would be for **social enterprises to become providers of vocational rehabilitation services. Under these conditions, they could offer paid services to NEA, as these services are outsourced.**

#### F. Identification of NEET youth

NEETs are young people aged 15–29, who are not registered as jobseekers / unemployed, have not benefited and / or do not benefit from employment measures provided by the territorial NEA units, do not study in the formal education system, and do not participate in courses or other training outside the formal education system.



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Identification of young NEETs is a social service, the purpose of which is to provide youth-friendly services by offering information on services they can benefit from, directing them to social or employment services in order to increase the chances of their sustainable employment.

This service is a new one, to be launched in 2021. In this regard, there are no procedures approved by the Government on provision of such services. They will be outsourced to social service providers based on public procurement procedures.

These services are directly related to identification of young NEETs, and they do not target employers, or, implicitly, social enterprises or work integration social enterprises. In the draft procedures (initial version) these services will be contracted by NEA to social service providers. In this case, **social enterprises or work integration social enterprises could get involved by starting accreditation procedures to get accredited as social service providers and by participating in public procurement tenders organized by NEA.** Under these conditions, depending on the type of activity that a social enterprise or work integration social enterprise carries out, it could benefit from this opportunity and become a social service provider for identification of young NEETs.

### G. Assisted employment

It is a new service, introduced in Law no. 105/2018 in 2020, and the procedures for implementing and providing this service have not yet been approved by the Government. This service involves a social service, which aims to ensure access to a paid job, obtaining and maintaining such job on the labour market for people with disabilities, by increasing employment opportunities, promoting sustainable employment and sustainable integration in the labour market.

This service claims to be flexible and it will be carried out in several stages, namely: establishing contact and involvement of the beneficiary; developing vocational profiles; job identification; employer involvement and workplace assistance, and post-employment monitoring.

It is premature to analyse efficiency this service, as it has not yet been started, and the Ministry of Health, Labour and Social Protection is in the process of finalizing the draft procedure and initiating public consultations on it.

At the same time, NEA is in the process of implementing the following active employment measures:

### H. Vocational training

Vocational training involves obtaining a qualification, retraining, advanced training, specialization or, as the case may be, certification as unemployed for the purpose of subsequent reintegration in the labour market. Vocational training is offered by providers of vocational training services, public or private, authorized by law or by employers. This is achieved through: qualification, requalification, advanced training and specialization courses;



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on-the-job training in the enterprise; professional internship; certification of knowledge and skills acquired in non-formal and informal education contexts.

Although it is not a measure that directly targets employers, vocational training may be actively used in the training process, and upon graduating the trained person can remain in such company. The conditions for participation in this process are universal, which a social enterprise or a work integration social enterprise could meet without difficulty.

On-the-job training is organized by territorial NEA units in collaboration with public or private vocational training service providers, authorized in accordance with the regulatory documents in the field of education, who have concluded collaboration agreements for on-the-job training with employers. Thus, theoretical training of the unemployed-trainee is rendered by the provider of vocational training services and it includes at most 20% of the total hours allocated to the vocational training program. And, the practical training of the unemployed student is carried out by the employer and it includes at least 80% of the total hours allocated to the training program.

The conditions to participate in this active measure are: the employer to be registered according to the legislation; not to have its operation suspended, not to be in the process of insolvency or liquidation; not to have debts to the national public budget for the previous year; to meet the conditions for on-the-job training of the unemployed student, according to the on-the-job training program; to have qualified personnel to exercise the function of foreman-instructor in production during on-the-job training; to ensure the observance of the occupational safety and health requirements; to have at least 5 employees, including the founder.

### I. Support for job creation and adaptation

Employers and the unemployed who create jobs or adapt existing jobs may benefit from support from territorial NEA units consisting of:

- a. subsidies granted for creation or adaptation of jobs;
- b. consultancy, assistance and support for starting a business;
- c. supporting local initiative projects.

These would comprise a set of active measures targeted also towards employers, and therefore they could be accessed by social enterprises or work integration social enterprises. Currently, there are no special regulations for subsidizing, for example, social enterprises / work integration social enterprises, but at the same time no administrative or eligibility difficulties can be identified.

### J. Jobs subsidies

This would be the most attractive measure for social enterprises and/or work integration social enterprises. This measure is regulated by art. 36 of Law no. 105/2018, where the employer who hires for an indefinite or determined period, with a duration of at least 18 months, unemployed from the categories of persons mentioned in art. 23 para. (3) lit. c), e) -j) of the same law, directed by a territorial NEA unit, shall receive monthly subsidies in the amount of 30% of the average monthly salary per economy for the previous year, for a period of 6 months,



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for each employee hired in this manner. The subsidy is granted for the purpose of partially compensating the salary. However, the employer is obliged to maintain employment relationship with the employee for a period of at least 12 months from the end of the period in which he/she had received the subsidy.

The job subsidy procedure is regulated by Government Decision no. 1276/2018 on approval of procedures regarding access to employment measures, Annex no. 5.

A difficulty that could be anticipated is identifying categories of unemployed groups that an employer could hire. These categories are limited to those established by law in art. 23 para. (3) lit. c), e) -j) namely:

- People with disabilities;
- Persons over the age 50;
- Persons released from detention;
- Victims of human trafficking, after psychological and social rehabilitation;
- People with drug addictions or using psychotropic substances, after social and psychological rehabilitation;
- Victims of domestic violence;
- Other categories subject to the risk of social exclusion established by law or by the Government.

This list of beneficiaries is quite exhaustive and it is not clear whether this list would include other categories of disadvantaged persons such as those mentioned also by Law no. 547/2003 on social assistance.

The amount of subsidy (30%) as equivalent in lei is a small one and the period for which it is offered is relatively short. This would be still an attractive measure for social enterprises and/or work integration social enterprises in their early stage upon establishment as a social enterprise.

Currently it is difficult to consider the opportunity to insist on subsidies intended exclusively for social enterprises and/or work integration social enterprises. Such measure would be much more difficult to promote and justify, since Moldovan business environment consists mostly of small and medium-sized enterprises, individual entrepreneurs, who face the same difficulties when starting a business.

### RECOMMENDATION (R13)

To analyse the opportunity to increase subsidy amount for social enterprises / work integration social enterprises, justifying the social purpose of the business they carry out. This amount could be at least 50% of salary costs for employees from at risk categories provided by the law.





Particularly relevant for work integration social enterprises is art. 38 of Law no. 105/2018 which provides for possibility of subsidies for creation or adaptation of workplaces for people with disabilities that are offered to employers who hire on the basis of individual employment agreement on indefinite period an unemployed with disabilities, according to provisions of art. 34 of Law no. 60/2012 on social inclusion of people with disabilities. NEA compensates 50% of costs necessary for creation and/or adaptation of workplaces, supported by the employer, while subsidized amount shall not exceed 10 average monthly salaries per economy for previous year for each job created and/or adapted.

From analysis of Law no. 105/2018, as well as that of Government Decision no. 1276/2018, the unemployed with mental and/or intellectual disability would not be eligible in the context of art. 38 of Law no. 105/2018. However, in case of these people who are able to perform easier work, special equipment, devices or technologies are often not required. In this regard, the assistance from a third party is vital to support them in carrying out their work properly, based on their type of disability. This support also involves additional costs for the employer, but these do not fall under the procedures for granting access to subsidies under art. 38 of Law no. 105/2018.

In conclusion, people with disabilities cannot be discriminated according to the type of disability they have and should have equal access to active measures provided by art. 38 of the Law no. 105/2018. However, neither Law no. 60/2012 on the social inclusion of persons with disabilities, nor the Procedure provided by Government Decision no. 1276/2018 offer a reasonable approach to integrate these people.

### RECOMMENDATION (R14)

To amend the regulatory framework, namely art. 34 para. (7) of Law no. 60/2012 on social inclusion of disabled people, and para. 24, Annex no. 6 of Government Decision no. 1276/2018 on approval of procedures for access to employment measures by adding to the list of subsidies also the costs for assistance of unemployed with mental and/or intellectual disabilities.

### K. Counselling, assistance and support for starting a business

Counselling, assistance and support for starting a business is an active employment measure, which aims to: financially support the unemployed who want to start an entrepreneurial activity and regain financial independence; create jobs; develop entrepreneurial skills in the unemployed and encourage development of new enterprises, by facilitating their access to finance.

Financial support consists in subsidies offered in accordance with art. 39 of Law no. 105/2018 based on presented business plan. The subsidy amount is 50% of the costs estimated by the unemployed, according to commercial offers, tax invoices or sale-purchase contracts, but not more than 10 minimum wages per economy for the previous year.



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This active measure is at an early stage and it has never been applied. In 2021 it will be piloted with ILO support, where 14 subsidies are planned to be granted by ILO and 10 subsidies - from the NEA budget. It is expected that the measure will include counselling in starting a business in form of training by qualified specialists hired by NEA, who will then help beneficiaries to develop those offers / business plans.

### L. Support for local initiative projects

It is an active employment measure for enterprises, in order to incentivize job creation in rural areas by providing subsidies.

The subsidies are intended exclusively for procurement of technological equipment, machines, devices for measurement, control and regulation, computers, furniture for organizing the space intended for the economic activity for which financing has been requested.

The subsidy amount is a maximum of 10 average salaries per economy for previous year. The subsidy amount is maximally 65% of the amount of eligible costs related to the project.

The beneficiary of the subsidy is required to finance at least 35% of estimated project costs.

This measure has not yet been applied in practice. Like counselling, assistance and support for starting a business, it is to be piloted with ILO support in 2021. Thus, it is planned that 14 subsidies will be covered by ILO, and 10 subsidies - by NEA budget.

### RECOMMENDATION (R15)

To advertise and organize media campaigns on availability of active measures. The biggest problem of implementing these measures is not always a financial one (there is a low absorption of budgetary resources), but the lack of understanding and knowledge on terms and conditions to access such services. These measures are available to a large target group (employers) regardless of the type of property and the activities they carry out. Social enterprises / work integration social could also access them.

### M. Incentivising labour mobility

An unemployed person who is hired based on an individual employment contract, at a job in another community selected by a territorial NEA unit, at a distance of more than 20 km from the community where he/she resides, benefits from a single allowance for employment equalling an average monthly salary per economy for previous year.

### General findings regarding employment measures relevant to social entrepreneurship:

1. There are several active measures for employers which could be also an opportunity for social enterprises or work integration social enterprises to access under conditions established by Law no. 105/2018 on promotion of employment and unemployment



- benefits and Government Decision no. 1276/2018 on approval of procedures for access to employment measures. These measures would be in particular:
- a. Subsidies granted for creation or adaptation of jobs (art. 36 and 38 Law no. 105/2018);
  - b. Consultancy, assistance and support for starting a business (art. 39 Law no. 105/2018);
  - c. Supporting local initiative projects (art. 40 Law no. 105/2018).
2. All subsidies that NEA may offer under Law no. 105/2018 are modest as an equivalent in national currency. These are usually single fixed tranches (such as those for adapting / creating a job for a person with a disability, or those for starting a business, etc.). These could be granted at a margin of 50-65%, but which cannot exceed 10 average monthly salaries per economy for previous year. For example, pursuant to Government Decision no. 21/2018 on approval of the amount of the average monthly salary per economy, the amount projected for 2019 was 6,975 lei. This means that any subsidy will be limited to a total amount of 69,750 lei.
  3. We find that granting subsidies (as active measures) is not an easy and well-exercised activity by NEA, this institution being traditionally involved more in passive than active measures. This can be seen in the difficulty of offering for example subsidies for creation / adaptation of jobs for people with disabilities in 2019, or, in the delay in subsidy payment in form of monthly payments to employers under art. 36 of Law no. 105/2018.
  4. Most of the active measures outlined above have not been started and are budgeted only to start this year (2021); this means that it is premature to assess the effectiveness of implementation and the difficulties that may arise.
  5. There are no active measures for social enterprises or work integration social enterprises. Further consideration should be given to the opportunity of expressly regulating such a measure. The ground for this would be the purpose of social entrepreneurship and the needs of disadvantaged groups. Another option would be to change existing procedures by making amendments to active measures and providing more favourable conditions to social enterprises or work integration social enterprises, such as raising subsidy ceilings specifically for these enterprises.

It is worth noting that the draft Program for Development of Social Entrepreneurship for the years 2021-2025 provides for some actions related to employment measures, namely: Government Decision no. 1276/2018 on approval of procedures for access employment measures, which introduces subsidies for jobs created in work integration social enterprises for hard-to-employ people from vulnerable categories.

It is important to mention first that the introduction of any active employment measures, such as subsidies, can be achieved only under Law no. 105/2018 on promotion of employment and unemployment benefits, Government Decision no. 1276/2018 which regulates procedures for access to employment measures that are established in Law no. 105/2018.



Taking into consideration the abovementioned findings, creation of new types of subsidies dedicated to work integration social enterprises is not appropriate at this time. Moreover, Law no. 105/2018 already provides a series of subsidies for employment of people from vulnerable and risk groups, which, by definition, are difficult to employ. In addition, access to these measures is granted regardless of the legal form of organization and types of activities performed by enterprises.

## V. REVIEW OF THE REGULATORY FRAMEWORK ON PUBLIC PROCUREMENT AS RELATED TO SOCIAL ENTERPRISES OR WORK INTEGRATION SOCIAL ENTERPRISES

### A. BACKGROUND

This review aims to address the subject from a technical point of view, and will refer to the regulatory framework / regulations applicable to social enterprises or work integration social enterprises, and to the regulatory framework applicable in the field of public procurement. The review highlights some of the regulatory shortcomings and gaps that create administrative barriers, or preclude greater participation of social enterprises or work integration social enterprises in economic activities.

According to previous studies on social entrepreneurship<sup>16</sup>, it is stated that “although social enterprises have theoretically access to the market (they are not prohibited from sale of products and services), they are not present in the market and do not benefit from support measures or technology to overcome this barrier. On the other hand, the small number of social enterprises in the Republic of Moldova are not helped to be visible on the market and to educate customers about responsible procurement. Although a large part of social enterprises practically offers services of public interest, central and local public authorities prefer traditional procurement from commercial companies. The reasons are diverse: incomplete legal framework on reserved procurement, lack of training of staff in the procurement departments on social and environmental clauses they could introduce in specifications, lack of understanding of the role of social enterprises in the community, lack of information about the sector in the public space”.

The interaction of social enterprises or work integration social enterprises with the field of public procurement is based on following regulatory documents:

### B. Law no. 845/1992 on entrepreneurship and enterprises

As mentioned before, social enterprises and work integration social enterprises represent new concepts for Moldovan entrepreneurship in general, however art. 36<sup>5</sup> of Law no. 845/1992 regulates measures to support and encourage social entrepreneurship, in particular:

[...]

2. *Work integration social enterprises may benefit from:*

... (b) *the right to participate in procedures for granting public procurement contracts, in accordance with public procurement legislation;*

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<sup>16</sup> [http://antrenoriatsocial.md/media/files/files/raport\\_de\\_analiza\\_antrenoriat\\_social\\_0\\_2739266.pdf](http://antrenoriatsocial.md/media/files/files/raport_de_analiza_antrenoriat_social_0_2739266.pdf)



*c) state aid through state programs approved in compliance with relevant legislation.*

Given that the rule cited above is of a general nature and refers to Law on public procurement, it is reasonable to consider the relevant provisions of that particular law.

### **C. Law no. 131/2015 on public procurement**

**Article 6.** *Special regime [...] 2. The right to participate in procedures for granting public procurement contracts may be reserved by the Government to sheltered workshops and work integration social enterprises if most of relevant employees are persons with disabilities who by the nature or gravity of their disability, are unable to pursue a professional activity under ordinary conditions.*

*(3) If participation in the award procedure is made according to provisions of para. (2), the contracting authority has the obligation to specify this fact explicitly in the call for participation.*

#### **Article 59. Procurement of social services and other specific services**

*(1) In case the contracting authority awards a public procurement contract / framework agreement for provision of social services and other specific services, provided in Annex no. 2, the obligation to apply this law exists only for contracts of value equal to or greater than that provided in art. 2 para. (1) lit. c).*

*... (6) The contracting authority has the right to establish that participation in procedures on awarding public procurement contracts related exclusively to healthcare, social and cultural services, to which the following CPV codes are assigned 75121000-0, 75122000-7, 75123000-4, 79622000-0, 79624000-4, 79625000-1, 80110000-8, 80300000-7, 80420000-4, 80430000-7, 80511000-9, 80520000-5, 80590000-6, from 85000000-9 to 85323000-9, 92500000-6, 92600000-7, 98133000-4, 98133110-8, shall be reserved for economic operators, such as non-profit legal entities, social enterprises and protected workshops, accredited as social service providers, public providers of social services.*

*(7) The economic operators in respect to which participation in the award procedures provided in para. (6) is reserved, must cumulatively meet the following conditions:*

*a) the purpose for which the economic operator has been established is the fulfilment of some objectives in the field of public services as provided in para. (6);*

*b) the profit obtained by the economic operator is reinvested in order to fulfil the purpose for which it was established; if the profit is distributed or redistributed, this is based on considerations related to participation of employees in the profits of the activity of the economic operator;*

*c) the organization of management bodies or structures owned by the economic operator performing the contract is based on the principle of employee participation in structures owned by the economic operator or requires the active participation of employees, users or other interested entities;*

*d) the economic operator has not been awarded a contract for the services in question by the respective contracting authority, pursuant to this Article, over the last 3 years.*

*(8) The maximum duration of the public procurement contract provided in para. (6) is 3 years.*

*(9) In the content of the notice provided in par. (2) let. a) published in order to award public procurement contracts as stated in par. (6), reference shall be made to such paragraph.*



#### D. REGULATORY DEFICIENCIES

The regulatory framework stated above shows that, apparently, the legislation guarantees some support measures for social enterprises or work integration social enterprises: of a general nature in the Law on Entrepreneurship and Enterprises, and, of a more specific nature - in Law on Public Procurement (see articles cited above).

Although Law no. 131/2015 on public procurement provides several types of public procurement, including in particular in art. 46 para. (1) let. g) - *procurement of social services and other specific services*, there are no regulations subordinated to the law on this type of procurement. For each type of procedure specified in art. 46 of the above-mentioned Law, specific government decisions and standard technical documentation are approved. Currently, there is only the Order no. 23/2019 on approval of Standard Documentation for implementation of public procurement of social food services in educational institutions.

Regarding procurement of social services and other specific types of services, Law no. 131/2015 in art. 2 para. (1) sets maximum thresholds, the total estimated value without VAT for public procurement contracts for social services and other specific services (listed in Annex no. 2 of the Law) must not exceed 13,000,000 lei.

In discussions with public procurement specialists, the latter noted that after republishing the Law no. 131/2015 on public procurement in 2019, considerable changes were made, and the secondary legislation was not fully adjusted to them. Likewise, although the law provides in art. 46 a whole list of types of procurement procedures, only two out of 8 procedures can be applied in a practical way, and have being integrated in the electronic system *mtender.gov.md* system, namely, open bid and request for price quotations. The other procedures were not integrated into the electronic system (nor are they allowed manually / on paper), while the system has not been adjusted to consider latest amendments of Law no. 131/2015.

In addition to these technical deficiencies related to the functionality of *mtender.gov.md*, from the discussions with the public procurement specialists from various institutions, it was found that although Law no. 131/2015 on public procurement provides a separate procedure for procurement of social services, they are traditionally procured in accordance with other procedures such as open bids or call for quotations and prices.

It is important to emphasize that according to Law 845/1992 the fields of activity of social enterprises or work integration social enterprises are much more extensive, compared to the areas / social services allowed by the Law on public procurement, namely:

- Work integration social enterprises if most of their employees are people with disabilities;
- Social enterprises and sheltered establishments, accredited as social service providers, public social service providers may participate in procedures for contracts on providing exclusively healthcare, social and cultural services, to which the following CPV codes are assigned 75121000-0, 75122000-7, 75123000-4, 79622000-0, 79624000-4, 79625000-1, 80110000-8, 80300000-7, 80420000-4, 80430000-7, 80511000-9,



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80520000-5, 80590000-6, from 85000000-9 to 85323000-9, 92500000-6, 92600000-7, 98133000-4, 98133110-8

Thus, in order to effectively make use of the incentive measures provided by Law 845/1992 to social enterprises or work integration social enterprises, a series of amendments specifically dedicated to encouraging participation of social enterprises or work integration social enterprises in a wider and more diverse range of public procurement contracts are needed according to the fields of activity defined in the law, without limiting them to the list prescribed by Law on public procurement.

Regarding amending Law no. 131/2015 on public procurement, this is an action envisaged in the draft National Program for Development of Social Entrepreneurship for the years 2021-2025 (namely Activity no. 3.1.3), which reads as follows: *Law no. 131/2015 on public procurement. Introduction of reserved procurement from work integration social enterprises and protected entities.*

In this context, we note that the opportunity related to this change and its impact is not very clear, since Law no. 131/2015 on public procurement in its art. 59 provides the possibility for the contracting authority to reserve for some economic operators (such as work integration social enterprises) participation in public procurement for contracting social or specific services. The practical difficulty regarding the applicability of this provision is not related to the text of the law, but to the technical aspects described above and the fact that currently there are actually very few entities that have obtained the status of work integration social enterprise. On the other hand, obliging the contracting authority to reserve certain procedures only to work integration social enterprises is not reasonable at the moment.

#### **Recommendation (R16)**

To amend Law no. 131/2015 on public procurement, in particular art. 59 par. (6) by extending the list of services that could be reserved for procurement by social enterprises.

#### **Recommendation (R17)**

To draft standard documentation and specific procedures on procurement of social services under art. 46 let. g) of Law no. 131/2015 on public procurement.

#### **Recommendation (R18)**

To adjust technically [www.mtender.gov.md](http://www.mtender.gov.md) in order make it possible to register public procurement under art. 46 let. g) of the Law no. 131/2015 on public procurement.



### Recommendation (R19)

To advocate and promote among public institutions, and procurement specialists the use of public procurement procedures (reserved procurement of social services from social enterprises) under art. 46 let. g), and art. 59 of Law no. 131/2015 on public procurement.

Recommendation 19 is an activity also provided in the draft National Program for the Development of Social Entrepreneurship for the years 2021-2025 in paragraph 3.1.2. The document provides as quantitative indicator: organized events / 150 participants (one event per year / 50 people starting with 2023). It is a beneficial activity; however, the indicator has to be more specific, namely in respect to the target group. The organized events have to target contracting public authorities, in particular those that have regular procurement of various social services, such as Ministry of Education, Ministry of Health, Labour and Social Protection, National Employment Agency, etc.





## I. Recommendations related to basic regulatory framework on social entrepreneurship

**Recommendation name: (R1) To amend Law no. 845/1992 on entrepreneurship and enterprises by clarifying the definition and list of people deemed to be disadvantaged groups.**

**Primary responsibility:** Ministry of Economy and Infrastructure

**Priority:** Low      **Impact:** Medium      **Effort:** Medium

### Problem & background:

Law no. 845/1992 in art. 1<sup>1</sup> of Law no. 845/1992 defines social entrepreneurship as an entrepreneurial activity aimed mainly to solve a social problem in the interest of community. This activity can be carried out by social enterprises and work integration social enterprises, and it aims at improving livelihoods and providing opportunities to people from disadvantaged groups of population by strengthening economic and social cohesion, including at local level, through employment, developing social services in the interest of the community, by increasing social inclusion. The understanding of a disadvantaged person is linked to the understanding stated in Law no. 547/2003 on social assistance, which provides an exhaustive list. The perspective of this law is clear and the law targets certain people who need social assistance, but it has a very narrow meaning for social entrepreneurship. At the same time, Moldovan legislation also has a list of disadvantaged people or risk group stated in Law no. 105/2018 on promotion of employment and unemployment benefits. In the latter one, the list is also exhaustive and aims to cover those risk categories of people who face difficulties of inclusion into the society and to find a job.

The Moldovan legislator adopted the model pursued by the Romanian legislator. The Romanian law on social economy also bears a link to the meaning of vulnerable/disadvantage group as stated in the Romanian Law on social assistance. However, the Romanian Law on social assistance does not regulate an exhaustive list of people, but gives just a definition who the people from vulnerable groups are. And, specifically, this meaning is as follows: *a vulnerable group means individuals or families who are at risk of losing their ability to meet daily living needs due to illness, disability, poverty, drug and alcohol addiction or other situations that lead to economic and social vulnerability*<sup>17</sup>.

**Proposed solution:** Amendments to be made to Law no. 845/1992 on entrepreneurship and enterprises, in particular art. 36<sup>1</sup> par. (3).

**Option A:** To extend the list of disadvantaged groups so that it includes also people at risk as stated in the Law no. 105/2018 on promotion of employment and unemployment benefits.

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<sup>17</sup> <https://lege5.ro/Gratuit/gi4diobsha/legea-asistentei-sociale-nr-292-2011?d=28.07.2015&pId=59441719#p-59441719>



**Option B:** To amend the law and exclude the reference to the meaning of disadvantaged group as stated in the Law no. 547/2003 on social assistance and to develop a general definition comprising criteria of a person that qualifies as belonging to a disadvantaged group.

**Justification & Desired outcome:** Social entrepreneurship activity is targeted to vulnerable/disadvantaged groups, and as this list of people is short, the scope of social entrepreneurship will be undermined. The current meaning, as stated in the law, does not cover all risk groups, and thus the social inclusion as main aim of social entrepreneurship would be diminished. The immediate outcome of amending the law in this sense, will ensure a greater impact and will cover all disadvantaged groups from different perspectives of their risks which include them in one category or another.

**Cost & Benefit Assessment:**

- Drafting technical amendments to the law does not imply additional financial resources for the budget, in this case, to the Ministry of Economy and Infrastructure.

**Key Performance Indicators:**

- A complete list of types of people from disadvantaged/vulnerable/risk groups which are targeted by social entrepreneurship;
- A clear extension of the scope of social entrepreneurship activity.

**Key Risks & Risk Mitigation:**

- As this activity is of low priority and it is more of a technical nature, it could be postponed till the time when the Ministry of Economy and Infrastructure drafts a set of amendments to Law no. 845/1992;
- A mitigation solution is to prepare a set of amendments related to social entrepreneurship (there are already many recommendations on that), and to include this technical aspect in the same package of amendments;
- In case the Ministry of Economy and Infrastructure decides to draft a specific law on social economy, or social entrepreneurship, the issue of disadvantaged groups has to be considered.

**Recommendation name: (R2) To draft a specific law on social entrepreneurship**

**Primary responsibility:** Ministry of Economy and Infrastructure

**Priority:** Medium **Impact:** High. **Effort:** High

**Problem & background:**

There are different ways of regulating social entrepreneurship; it could be integrated in an existing general framework or regulated separately. There are different international models in



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this respect and no best option exists; it depends a lot on the regulation procedures that may apply in each country. In Moldova's case, social entrepreneurship was introduced in a general regulatory framework under the umbrella of Law no. 845/1992 on entrepreneurship and enterprises. Perhaps at that time it was the best option and it could have required too much effort to develop a completely separate law on social economy or social entrepreneurship. However, in the long term this option diminishes the importance of social entrepreneurship and may pose difficulties in further promotion on different incentives related to social entrepreneurship in Moldova.

**Proposed solution:** To draft a new law on social entrepreneurship, in order to emphasize the specifics of social entrepreneurship, and provide more space for developing medium, and long-term strategic policies in this area.

The draft law may comprise the following aspects:

1. Principles of social entrepreneurship;
2. Registration as a social enterprise;
3. Types of social enterprises;
4. Internal organization of social enterprises;
5. Mechanism and tools of state aid;
6. Rights and obligations of social enterprises;
7. Monitoring and evaluation of social enterprises.

### **Justification & Desired outcome:**

A specific law would make for a clear description of the entire ecosystem of social entrepreneurship in one source.

### **Cost & Benefit Assessment:**

- Costs for additional expertise on drafting a separate law on social entrepreneurship;
- Time for drafting a law in quite a new field for Moldova; time for decision making and promotion of the draft law.

### **Key Performance Indicators:**

- A separate law on social entrepreneurship with adequate and specific principles on conducting social entrepreneurship activity.
- Greater visibility which would lead to a proper budgetary planning of administrative, financial and tax incentives.

### **Key Risks & Risk Mitigation:**

- Lack of institutional capacities of the Ministry of Economy and Infrastructure to draft the law, and to promote it within the Government;
- It may be believed to be a low priority activity in the context of urgent issues related to resolving pandemic consequences, and the possible decision to promote first those laws and amendments which focus on solving urgent matters.



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- These risks could be eventually mitigated by seeking support from development partners that have social entrepreneurship, inclusion of people from disadvantaged or risk groups, etc., as scope for cooperation.

## II. Recommendation on improving the activity of the National Commission on Social Entrepreneurship

**Recommendation name: (R3, R4, R5, R6, R7, R8, R9, R10). To amend Government Decision no. 1165/2018 on approving the Regulation on organization and functioning of the National Commission for Social Entrepreneurship**

**Primary responsibility:** Ministry of Economy and Infrastructure

**Priority:** High **Impact:** High **Effort:** High

**Problem & background:** The findings of this report include a set of regulatory gaps in Government Decision no. 1165/2018 / Regulation on organization and functioning of the National Commission for Social Entrepreneurship, for example: lack of a monitoring and evaluation mechanism, lack of procedures on decision-making within working groups of the Commission, types of decisions that the Commission could issue in case of warnings, appointing a procedure on the Chairperson, number of consecutive mandates of members, etc. The Commission organizes meetings only upon request to review applications, thus, over the last 2 years only 4 meetings out of the required 8 were held.

### Proposed solution:

1. To amend the **procedure of appointing the Commission's Chairperson** by election of the Chair from among Commission's members for the same 3-year mandate / OR to amend the procedure of appointing the Commission Chair so that it is not linked to the position of the General Secretary of the Ministry of Economy and Infrastructure. Other representative of the Ministry could be nominated (Head of a Division or a State Secretary), but also for a 3-year mandate as other members of Commission.
2. To regulate the **number of mandates** that members of Commission could serve: the members of Commission could have a maximum of 2 consecutive 3-year mandates.
3. **To develop an evaluation methodology** in order to assess the compliance of social enterprises / work integration social enterprises, that includes at least the following: results indicators, output indicators, impact indicators;
4. **To regulate the decision making procedure within the evaluation working group.** The decisions could be taken by the majority of appointed members. Or, it could be at least stated that working groups members could attach separate opinions to the working group evaluation report.
5. **To introduce an additional legal ground for performing compliance evaluation** - own conclusion of the Commission;
6. To clarify the **legal form of the document** to be issued (it could be a prescription/recommendation, notification) as warning. The legal form of the issued document is relevant in the context of appeal/complaint procedures.



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7. **To state the obligation to draft an annual activity plan** and a calendar of estimated dates of regular meetings of the Commission;
8. **To strengthen the internal capacities of the Commission's Secretariat** so that it could assist the Commission and the working groups more on a technical level.

### Justification & Desired outcome:

The National Commission on Social Entrepreneurship has an important role to play in development of social entrepreneurship in Moldova. This is a body that could first assess all the bottlenecks and main problems which social enterprises face. In addition, it has to be an active body that follows the changes and progress of this sector, and comes with instant solutions. This is very high level representative body, and it shall use its competences properly, and not just to only technically assess applications that are sent to the Commission for evaluation. The evaluation in practice is done by the working group under the Commission. The desired outcome is to strengthen the capacities, functions and efficiency of the Commission.

### Cost & Benefit Assessment:

- Costs and efforts on assessing the Commission needs;
- Costs and efforts on developing amendments to the Regulation of the Commission;
- Time needed to draft amendments and the justification note in order to start decision-making procedure and promotion, collecting other institutions' opinion, discussing and finding consensus within the Commission on the final version of draft amendments.

### Key Performance Indicators:

- A functional Commission with a continuous activity;
- An efficient decision-making mechanism;
- A clear and predictable mechanism on monitoring and evaluation of compliance.

### Key & Risk Mitigation:

- Lack of institutional capacity of the Ministry of Economy and Infrastructure to draft amendments to the Government Decision;
- A mitigation solution is to start cooperation with development partners, NGOs in order to seek support for this particular activity;
- Eventually, a small working group could be established to accelerate the drafting process if necessary, whereby costs could be covered by certain development partners.

## III. Recommendations on employment measures in context of social entrepreneurship in Moldova

**Recommendation name: (R11, R12, R13, R14, R15) To ensure development and promotion of existing active employment measures under Law no. 105/2018**



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**Primary responsibility:** Ministry of Health, Labour and Social Protection/ National Employment Agency

**Priority:** High **Impact:** High **Effort:** High

**Problem & background:** Once a new Law on employment has been adopted in 2018 (namely Law no. 105/2018 on employment promotion and unemployment benefits) a set of active measures were included to boost employment in particular at risk groups of people. Additional active measures have been added in 2020. All these measures represent additional incentives for people who seek a job opportunity, and also for employers who are able to access subsidies. The requirements on accessing these measures are general and easy to accomplish. All active measures are focused on groups of people at risk, such as people with disabilities, people over 50, women, youth, etc. Unfortunately, one of the problems is that these measures are promoted only within communities, while a recent monitoring and evaluation report (on job subsidies and creation/adaptation of workplaces for people with disabilities) has emphasized that there are situations when not all budgeted resources were accessed. Thus, the problem in this case is not primarily a lack of financial resources.

#### **Proposed solution:**

1. To develop the electronic resource [www.angajat.md](http://www.angajat.md), and to establish additional criteria for the search engine. The latest job offers shall be listed on the first page;
2. To develop the electronic service [www.e-angajare.md](http://www.e-angajare.md), as it is not used to its maximum capacity;
3. To analyse the opportunity to increase the subsidy amount for social enterprises / work integration social enterprises, justifying the social purpose of the business they carry out. This amount could be at least 50% of salary costs of any employee from the risk categories provided by the law. It will imply amendments to the Law no. 105/2018 on employment promotion and unemployment benefits, and Government Decision no. 1176/2018.
4. To amend the regulatory framework, namely art. 34 para. (7) of Law no. 60/2012 on social inclusion of people with disabilities, and para. 24, Annex no. 6 of Government Decision no. 1276/2018 on approval of procedures regarding access to employment measures by adding to the list of subsidies also the costs for assistance to unemployed with mental and/or intellectual disabilities.
5. To advertise and organize media campaigns on availability of active measures.

#### **Justification & Desired outcome:**

Social enterprises have all the necessary instruments to access active measures provided by the law; there are no special requirements as long as their activity is related to groups of people at risk. A desired outcome is to have widely applied active measures as provided by the law.

#### **Cost & Benefit Assessment:**

- Costs for development technological tools such as [eangajat.md](http://eangajat.md), [angajat.md](http://angajat.md);



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- Costs of promotion campaigns.

### Key Performance Indicators:

- Increased number of subsidies granted to social enterprises and work integration social enterprises;
- Number of promotion campaigns on active employment measures in rural areas;
- An accessible electronic tool on employment.

### Key Risks & Risk Mitigation:

1. Lack of financial resources to be budgeted specifically for these activities;
2. To seek support of development partners, such as ILO. This organization is a long-term partner in promoting active employment measures in Moldova.

## IV. Recommendations on public procurement targeting social enterprises and work integration social enterprises.

**Recommendation name: (R16, R17, R18, R19) To draft secondary legislation on public procurement of social and specific services under the Law no. 131/2015 on public procurement.**

**Primary responsibility:** Ministry of Finance

**Priority:** High **Impact:** High **Effort:** High

### Problem & background:

The current regulatory framework has already created opportunities for social enterprises to participate in public procurement under specific requirements. Even a special procedure on social and specific services procurement was introduced. Law no. 131/2015 on public procurement, in its art. 59, also provides for the possibility that the contracting authority reserves for some economic operators (such as work integration social enterprises) the participation in public procurement on contracting social or specific services. Unfortunately, these provisions have not been applied in practice, and the contracting authorities still prefer traditional public procurement procedures such as public bids and calls for quotations. In addition to these circumstances, there is no secondary legislation on organizing public procurement of social and specific services under art. 46 let. g) of the Law no. 131/2015 on public procurement, which make this procedure not applicable. And, one of the last problems is technical and it is related to the electronic procedures of public procurement through [mtender.gov.md](http://mtender.gov.md), which up to this date does not allow for registration of all public procurement procedures stated in art. 46 of Law no. 131/2015.



**Proposed solution:**

1. To amend Law no. 131/2015 on public procurement, in particular art. 59 par. (6) by extending the list of services that could be reserved for procurement by social enterprises;
2. To draft standard documentation and specific procedures on procurement of social services under art. 46 let. g) of Law no. 131/2015 on public procurement;
3. To adjust technically [www.mtender.gov.md](http://www.mtender.gov.md) in order to make it possible to register public procurement under art. 46 let. g) of Law no. 131/2015 on public procurement;
4. To advocate and promote use of public procurement procedures (reserved procurement for social services dedicated to social enterprises) under art. 46 let. g), and art. 59 of Law no. 131/2015 on public procurement among public institutions and procurement staff.

**Justification & Desired outcome:**

1. To put in place all technical solutions and proper secondary rules and conditions on carrying out public procurement of social and specific services, including reservation of contracts for these services. The desired outcome is to implement solutions already prescribed by the law in a proper manner.

**Cost & Benefit Assessment:**

- costs on developing [mtender.md](http://mtender.md) in order to allow the registration of all public procurement procedures prescribed by the law, including procurement of social and specific services;
- costs and efforts of public procurement specialists to draft secondary legislation on public procurement of social services;
- costs on organizing training courses or events for public procurement specialists for promoting reservation of contracts for procurement of social and specific services.

**Key Performance Indicators:**

- A functional electronic platform [mtender.gov.md](http://mtender.gov.md);
- Clear technical rules on performing public procurement of social and specific services;
- Trained and informed public procurement specialists on reservation of contracts for social and specific services.

**Key Risks & Risk Mitigation:**

- Insufficient budgetary resources for developing technical solutions;
- Secondary legislation could be drafted without allocating additional resources.





**ORGANIZED INTERVIEWS:**

1. Ministry of Economy and Infrastructure, representative in the National Commission on Social Entrepreneurship, Head of Division for Economic Policies and Business Environment, Mr. Vasile Vulpe;
2. National Commission on Social Entrepreneurship, Secretary, Ms. Liudmila Tambaliuc;
3. National Agency on Employment, Head of Division on implementation of employment policies, Ms. Crisitna Arapan;
4. Ministry of Health and Social Protection, Head of Division for Employment Policies and migration regulation, Ms. Anna Gherganova;
5. International Labour Organization, Moldova, National Project Coordinator, ILO East Central Europe Office, Ms. Violeta Vrabie;
6. GIZ Moldova, Senior policy adviser for economic policy advice to the Moldovan Government, Ms. Olesea Ghedrovici;
7. National Probation Office, public procurement specialist, Ms. Irina Caras;
8. President of East Europe Foundation and the Country Director of Eurasia Foundation in Moldova, Mr. Sorin Mereacre.



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5. Law No. 60 of 30-03-2012 on social inclusion of persons with disabilities;
6. Law No. 179 of 21-07-2016 on small and medium enterprises;
7. Law No. 436/2006 on local public authorities;
8. Decision No. 697 of 22-08-2014 on approval of the Regulation on withholding of income tax from salary and other payments made by the employer on behalf of the employee, as well as from payments on behalf of individuals who do not engage in entrepreneurial activity for provision of services and/or carrying out of works;
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